Comments and Responses - Tribal Government

ID	Comment	Response
Duckwater Shoshone Tribal Council		
38000-1	Within the agreement, BLM acknowledges that Important tribal historic properties may be affected, but only suggests, that tribes may attach religious and cultural significance to affected project areas that may be affected. This language fails to acknowledge that important resources and areas will certainly be affected by any construction of the proposed project.	The Programmatic Agreement addresses historic properties, including historic properties to which an Indian Tribe attaches religious and cultural significance. If adverse effects to these properties were to occur as a result of project construction, the effects would be avoided, minimized, or mitigated per the agreement.
38000-2	The BLM cannot permit the right-of-way for the pipeline because it would violate the laws governing public lands.	Chapter 1 contains a thorough explanation of BLM's legal mandates and responsibilities under both FLPMA and LCCRDA.
38000-3	The DEIS predicts dire environmental damage from the SNWA pumping but contains only a weak analysis of the equally dire social and economic impacts on eastern Nevada and western Utah from the Proposed Action and the five pumping scenarios.	The purpose of this EIS is to analyze impacts related to the right-of-way, access roads and ancillary facilities. The proposed pipeline routes, as submitted by the applicant, have been analyzed in this EIS and the impacts associated with the proposed alignment have been presented therein. Impacts related to well locations, pumping, and groundwater drawdown are analyzed on a programmatic level and may be analyzed in further detail in future NEPA. See also Standard Resource Response Gen-2 for more information on tiering.
38000-4	Any information know by the BLM, any federal agency, or the proponent regarding tribal natural or cultural resources that may be significant to a tribe will be fully disclosed to the Tribe immediately, including information obtained in the past and the future.	
38000-5	No consultation may be said to occur without a resolution of the Tribal Council with participation of Tribal attorneys.	Government-to-government consultation was initiated in 2007 and is ongoing. Tribal consultation is a process of communication that may include written correspondence, meetings, telephone conferences, site visits, and e-mails. ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 5 (Nov. 2008). The BLM has engaged in extensive government-to-government consultation and has documented that consultation in the administrative record. Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) ("The agency official shall consult with representatives designated or identified by the tribal government"); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior's December 1, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe. In its ongoing consultation with each tribe, BLM invited each tribe to identify who would consult on the tribe's behalf. Most tribes identified their tribal chair, but requested that attorneys and other council members be kept informed. BLM has complied with this request in the past and will continue to do so in the future.
38000-6	BLM and Bureau of Indian Affairs will respect the Tribal request to renegotiate the previously entered stipulations regarding Impacts to Tribal resources by proposed SNWA groundwater project.	Thank you for your comment. This comment regarding the Department of the Interior's stipulated agreements has been forwarded to the executive committee who oversees the implementation of these agreements.
38000-7	Federal agencies will assist the Tribe (funding and staff participation) to quantify and obtain a legal recognition of the affected Tribes reserved water rights, prior to any construction of the proposed groundwater project. Federal agencies and proponent should assist the Tribe in construction of necessary infrastructure to develop and utilize their water rights prior to any construction of the proposed project.	Water rights are discussed in section 3.3.1.7 of the FEIS. This section also has a discussion specific to tribal water issues.
38000-8	Federal agencies will withhold any approvals related to the proposed project until the Tribes water rights are quantified and legally recognized.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.
38000-9	Tribal cultural resources personnel should have equal and full access and participation with federal agency staff, with full funding for their expenses and work.	ACHP's section 106 regulations do not provide a mandatory funding mechanism for tribal cultural resource personnel. BLM's policy regarding compensation to Native Americans for their participation in the BLM's administrative process is: The BLM does not compensate individuals or organizations including Native American individuals, Indian tribes, Indian communities, and Indian organizations for contributing information or comments as input into the BLM's administrative process designed to protect tribal interests. BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1.
38000-10	Federal agencies should not enter the programmatic agreement the affected Tribes approve the terms.	For the development of a PA, the BLM is required to consult with tribes. 36 C.F.R. § 800.14(f). The regulations do not provide for tribal approval of the terms of the PA. By regulation, the PA takes effect when the ACHP, the SHPO, and the agency(ies) execute the agreement. Id. § 800.14(b)(2)(iii).

Comments and Responses - Tribal Government

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38000-11	Affected Tribes should participate in determining and documenting areas of potential effects (APEs).	By regulation, the agency in consultation with the SHPO determines and documents the APEs, 36 C.F.R. § 800.4(a)(1), while affected tribes are invited to participate in the identification and evaluation of historic properties, including properties of traditional religious and cultural importance, and in the resolution of adverse effects. Id. § 800.2(c)(2)(B)(ii). Identified Indian Tribes were invited to participate and have already identified various historic properties and cultural resources through the Ethnographic Assessment process, as reflected in the preamble to the PA, and through tribal consultation which is ongoing throughout the Project.
38000-12	Section D.1.c should be changed. Federal law requires BLM to consult with affected Tribes regardless of whether the Tribe enters the draft agreement.	BLM recognizes that its consultation and trust obligations exist whether a tribe participates in the PA or not. In response to this comment, text to that effect was added to the PA. Also, the PA requires BLM to continue consultation with tribes regarding cultural resources and historic properties, regardless of whether the tribe signed the PA. Other Stipulations in the PA also recognize and incorporate BLM's ongoing consultation responsibility, irrespective of whether a tribe signed the PA..
38000-13	BLM should enter data sharing agreements proposed by the Tribes, which require BLM to share fully cultural information and allow the Tribe to utilize the information as the Tribe deems appropriate to protect Tribal resources. See Section 0.4.	The PA provides for the execution of data-sharing agreements. BLM may not allow that information to be freely used however because, by statute, the agency is obligated to protect sensitive information and other information about historic properties. ACHP's guidance suggests that "[i]ssues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties." ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. The data sharing agreements that BLM provides to the tribes are used to protect information from public disclosure.
38000-14	Any contacts with the Tribes by the proponent or federal agency regarding National Historic Preservation Act compliance should be copied to the Tribal Councils and Tribal attorneys assigned to this issue. Section D.1.e.	Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) ("The agency official shall consult with representatives designated or identified by the tribal government"); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior's December 2, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe. For this project, BLM requested that a consultation person be identified and most tribes identified the tribal chair. In addition, many tribes requested that additional people such as tribal attorneys, tribal staff and other council members, be kept informed. BLM has complied with and will continue to comply with this request. In its ongoing consultation with each tribe, BLM will renew its request for each tribe to identify who will consult on the tribe's behalf, and any tribe may specify its consultation person or persons.
38000-15	Any discovery of cultural resources should be communicated to the Tribe and not just the BLM for determination of significance. See Section 1.2. Tribes should be able to evaluate for themselves the significance of the discovery. The time periods in Section 1 are too short.	The PA provides for discovery of cultural resources to be reported to tribes in addition to BLM. BLM determined that the time periods for comments described in the PA provide a reasonable opportunity for consulting parties to participate, and the time limits are necessary to provide certainty for decisionmaking during the section 106 process governed by this PA. BLM will address, to the extent possible, any tribal comments received beyond the stated timeframe.
38000-16	Failure of the Tribe to respond should not be interpreted as a concurrence to any action or activity. Section J.s.	The PA comment period provided to the Identified Indian Tribes is consistent with the comment period for other consulting parties. The time periods in the PA are consistent with the time periods specified in the ACHP's section 106 regulations. See 36 C.F.R. § 800.13. BLM determined that the time periods for comments described in the PA provide a reasonable opportunity for consulting parties to participate, and the time limits are necessary to provide certainty for decisionmaking during the section 106 process governed by this PA. BLM will address, to the extent possible, any tribal comments received beyond the stated timeframe.
38000-17	Consulting Tribes should participate fully in monitoring. Section L. Funding for all monitoring activities (staff and legal expenses) should be provided by the proponent.	Tribal monitoring is addressed in the PA. The PA provides for tribal monitoring of construction activities at historic properties to which a tribe attaches religious or cultural significance in the APEs for direct effects. Pursuant to the PA, the project proponent is responsible for funding any required monitoring.
38000-18	Information on location and nature of all cultural resources should be made fully available to Tribes. See Section N.7.	BLM is willing to disclose information to tribes. BLM is required by several statutes to keep certain information confidential and is required by the section 106 regulations to address concerns over confidentiality of information. ACHP's guidance suggests that "[i]ssues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties." ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. The data sharing agreements that BLM provides to the tribes are used to protect information from public disclosure.

Comments and Responses - Tribal Government

ID	Comment	Response
38000-19	Dispute resolution provisions should provide for a neutral decision-maker with binding authority. The agreement should also include provisions that Tribal participation or signing does not waive tribal sovereign immunity in any way.	The PA provides several dispute resolution provisions and provides for neutral decision makers with binding authority. First, disputes raised by signing parties may be resolved by consultation between BLM, SNWA, the objecting party, and the other Signatories to the PA ("local consultation"). If that local consultation is unsuccessful, the State Director of Nevada BLM has authority to make a final determination regarding any objection that cannot be resolved by local consultation, except for disagreements on National Register eligibility, findings of effect, or treatment. For disputes raised by non-signing parties, including Identified Indian Tribes, regarding determinations of National Register eligibility, the objector can request the ACHP to request the Keeper of the National Register to determine the eligibility of the property. Issues regarding findings of effect and resolution of adverse effects may be raised directly to the ACHP. The State Director, Keeper of the National Register, and the ACHP are thus three arbiters for dispute resolution. Text has been added to the PA to address the sovereignty issue raised in this comment.
38000-20	The Tribe should be able to terminate participation by written notice and without prejudice or waiver of any rights or obligation of the federal agencies.	Termination of a tribe's participation in the PA does not waive the rights and obligation of the federal agencies, because consultation and trust obligations exist regardless of whether a tribe executes the PA. In response to this comment, text was added to the PA recognizing this principle, and additional terms have been added to provide for tribes terminating their participation in the PA by written notice to BLM.
38000-21	Termination of the Tribe's participation in any agreement will not impact or limit the federal agencies' consultation or obligations or trust responsibility in any manner.	BLM recognizes that its consultation and trust obligations exist whether a tribe participates in the PA or not. In response to this comment, text to that effect was added to the PA. The PA requires BLM to continue consultation with tribes regarding cultural resources and historic properties, regardless of whether the tribe signed the PA. Other Stipulations also recognize and incorporate BLM's ongoing consultation responsibility, irrespective of whether a tribe signed the PA.
38000-22	the DEIS contains many defects that requires addressing prior to reaching a fully informed Record of Decision. The defects include failure to disclose and independently analyze the total economic cost of the project, failure to provide and analyze the cost of proposed mitigation and monitoring	The purpose of the NEPA (EIS) process is to disclose potential project impacts. The BLM appreciates that you have identified your specific concerns regarding the impacts disclosed in the DEIS. The underlying concerns in your comment are outside the scope of the EIS. However, because of comments received to the EIS, summary information regarding SNWA's estimated project cost are included in the FEIS. See also Standard Resource Response SocEcon-1, SocEcon-3 and SocEcon-6. Additional information regarding SNWA's cost estimates and potential financing can also be found on the Nevada State Engineer's website: www.water.nv.gov/hearings/past/springetal/documents.cfm?DIR=exhibits.SNWAExhibits
38000-23	and the lack of providing real alternatives to the groundwater pumping project. There were many alternatives provided during the scoping hearing that the public demanded. These alternatives include efficiency and conservation of existing water resources in Southern Nevada, purchasing water rights currently used for agriculture in Southern Nevada and along the Colorado River, and desalination options.	The BLM identified alternatives (see sections 2.1 and 2.2) that utilized the Congressionally-mandated LCCRDA corridor south of the White Pine County line and presented a range to encompass analyses related to pumping volumes, pumping locations and concentration of pumping activities, valleys where pumping could occur, and alternative pumping scenarios. BLM Best Management Practices, Applicant-committed Measures, Stipulated Agreements signed by the Department of Interior Bureaus, and additional mitigation and monitoring presented both in the FEIS and in additional plans drafted by the BLM will help to protect the environment from large-scale damage to the extent possible. Please see standard resource response Gen-3 for more information on this topic.
38000-24	The DEIS predicts extensive environmental damage from the SNWA groundwater project and contains a weak analysis of the social and economic impacts on eastern Nevada and western Utah from the Proposed Action and the five pumping scenarios	The purpose of this EIS is to analyze impacts related to the right-of-way, access roads and ancillary facilities. The proposed pipeline routes, as submitted by the applicant, have been analyzed in this EIS and the impacts associated with the proposed alignment have been presented therein. Impacts related to well locations, pumping, and groundwater drawdown are analyzed on a programmatic level and may be analyzed in further detail in future NEPA. See also Standard Resource Response Gen-2 for more information on tiering.
38000-25	The DEIS does not address how to mitigate the cumulative impacts of the environment by the SNWA GWD in the five valleys. It accepts the fact that there will be substantial irreversible, irreparable injury and damage to the local and regional ecosystem and does not include preventive remedy in the mitigating plan	Mitigation is implemented for project alternatives so that the project's contribution to cumulative effects is reduced.
38000-26	The DEIS does not describe if the local streams and aquifer are in direct hydraulic connection and does not indicate if the surface and ground waters function as an interdependent stream-aquifer system.	The potential for interconnection between surface water resources and regional groundwater resources targeted by the GWD project were evaluated as described in Section 3.3.2.8 under the minor heading Identification of Springs and Streams Susceptible to Drawdown Impacts.
38000-27	There aren't supporting documents that describe a clear set of conditions that will trigger shutting off the pumps.	Monitoring and mitigation measures related to groundwater pumping impacts are focused on the framework and process at this stage of the project. As the planning process continues, specific details for the monitoring and mitigation measures will be defined including trigger mechanisms to indicate if project groundwater pumping is affecting resources. Please see standard resource response MM-1 and MM-2 for more information on mitigation and monitoring.
38000-28	It does not include Environmental Assessment for each well site and for the capillary distributive water pipes.	Additional analysis will be performed during subsequent NEPA to address specific areas once exact well locations are known.

Ely Shoshone Tribal Council

Comments and Responses - Tribal Government

ID	Comment	Response
35899-1	The analysis of groundwater drawdown impacts in particular and the associated descriptions of impacts has been clearly skewed to downplay the scale and .intensity of impacts. The Tribe has serious concerns about this, especially given that the DEIS already describes serious impacts on our aboriginal territory, habitat for wild animals and plants used by tribal member , areas of traditional uses, and important sacred sites critical to our Tribe's cultural legacy and survival.	The PA requires BLM to continue consultation with tribes regarding cultural resources and historic properties. BLM will also continue to consult with the Tribe, through the NEPA process, to address other issues of concern during the future tiered NEPA processes.
35899-2	The stated purpose and need tor this federal action has been based on outdated and flaw d assumptions about the population growth of the Las Vegas area, demand for water r sources , and lack of other water sources to supply Las Vegas ' water demand. The need is not apparent and is fatally flawed for a number of reasons.	The purpose and need statement in the draft EIS has been revised to further clarify that the EIS is being written to meet BLM's legal responsibility under NEPA in response to SNWA's applicant for a right-of-way. An additional statement to specify SNWA's rationale for the proposed project has been added to Chapter 1 to address this comment.
35899-3	This DEIS fails to conform to the RMPs in affected areas on numerous counts, but most notably the impact analyses of all of the alternatives and proposed action are shown to have long- term groundwater drawdown that will impact large land areas, scarce surface water resources, fragile water-dependent ecosystems, and Native American uses. Such long-term impacts are not consistent with, nor in conformance with, existing RMPs.	Both the BLM Ely and Southern Nevada District RMPs have been reviewed and the BLM has determined that no plan amendments are needed at this time to proceed with SNWA's request for a ROW grant. This initial tier of programmatic analysis related to future facilities and potential groundwater drawdown will set the stage for subsequent analysis in future tiers. Future NEPA will determine the applicability of the RMPs in effect at that time.
35899-4	On Page 1-1 end of paragraph 3, the BLM must state specifically what "policy guidance ... from the Secretary of the Interior's office ... " is being considered in preparing the SNWA DEIS. In other words, the BLM must identify specific and referenced policies from the Secretary's office that were considered in drafting the SNWA DEIS.	Text has been added to address this comment.
35899-5	On Page 1-1 end of paragraph 3, the BLM must state specifically which "land management plans currently in place for the affected public lands" were considered in drafting the SNWA DEIS. The BLM must identify specifically and reference those specific land management plans just as the BLM referenced CFRs and BLM Handbook.	Both the BLM Ely and Southern Nevada District RMPs have been reviewed and the BLM has determined that no plan amendments are needed at this time to proceed with SNWA's request for a ROW grant. This initial tier of programmatic analysis related to future facilities and potential groundwater drawdown will set the stage for subsequent analysis in future tiers. Future NEPA will determine the applicability of the RMPs in effect at that time.
35899-6	On Page 1-2, Figure 1.1-1, the Tribe urges the BLM to include federally recognized tribal reservation boundaries just as has been done for other governmental entities, including state and county governments. The Tribe previously has urged the BLM to make this minor adjustment for this figure and other relevant figure in the SNWA DEIS.	The tribal reservation boundaries have been added to Figure 1.1-1
35899-7	On Page 1-9, second to last paragraph, the BLM' s states that the "BLM and the Tribes have worked together on the development of an Ethnographic Assessment report and are addressing potential traditional cultural properties .... " This statement is inaccurate and the Tribe never approved the Ethnographic Report for this project. The Tribe may have participated in meetings and interviews, but did not worked together with the BLM and SWCA Consultants in developing the final ethnographic report. BLM must change the language of this statement to reflect the fact s. As is, the BLM has made false statements about any sort of working relationship between the BL\11 and the Tribes. Rather, the DOl has neglected to enter into appropriate government-to-government consultations with the Tribe.	Text on page 1-9 of the DEIS has been changed to more accurately portray the role the tribes played during the development of the Ethnographic Assessment. BLM has conducted its government-to-government consultation in accordance with DOI guidance and manuals. Additional information on this topic has been added to Appendix F-3.17.
35899-8	On Page 1-12, the Water Conservation vs. Population Growth chart is not clear and misleading. The graphic title must reflect the actual data content, something like "Water Use vs. Population". Moreover, just as the BLM include actual GPCD data for 1999 and 2008, the BLM must include actual population numbers on the graph for pre-2000 thru 2010. Those data are available and must be used in this graph. The BLM also must indicate on the graph what data are projections vs. actual GPCD or population data from 2010 or before.	Thank you for expressing your concerns related to the Draft EIS. Your suggestions have been considered by the BLM, and additional information added to clarify the graph.
35899-9	The BLM references CBER 2008 population projects on Page 1- 12 thru 1-13, yet CBER also produced projections in 2009 as shown on Page 3.18- 9 (Table 3.18- 6). CBER 2009 projection · are markedly lower than CBER 2008 projections. Moreover, the most recent population projections have been conducted by the Nevada State Demographer in 2010 and those project ions are about 43% less than CBER 2008 projections by 2030. While the Nevada State Demographer projected population growth under two different scenarios, low job growth vs. high job growth, both projections by 2030 are less than CBER's projection in 2008 and 2009. ·while BLM states that it has no regulatory or administrative authority over SNWA' s population projections and water demand estimates, the BLM does have the responsibility to draw attention to these drastically different population projections in Chapter 1, Section 1.6 of the DEIS. The Tribe urges the BLM to provide a graphic in Section 1.6 that shows all of the different population projections from Table 3.18-6. This information needs to be at the forefront of the SN\V A G\VD EIS. It is incorrect and misleading to present only the CBER 2008 projections in Section 1.6, which are the highest population estimates /forecasts and excludes recent economic recession data.	Thank you for your comment. The specifics of SNWA's projected water demand, the population growth projections embedded therein, and its consideration of alternative sources of water are outside the scope of this EIS. As noted in Sections 1.1 and 1.6, SNWA is acting within its statutory obligations and responsibilities in the development of its water plan, recognizing the long lead-times and uncertainties associated with securing additional water resources and major capital facility development. Standard Resource Response Gen-3 and SocEcon-2 provide additional response to this comment.
35899-10	In Section 1.61 on Pages 1-12 and 1- 13, the BLM discusses water demand and conservation in such a way to that helps build support for the G\ND Project. However, this section of the DEIS fails to mention whatsoever the fact that water use efficiency in Las Vegas could be substantially increased. Moreover, there is no mention in the DEIS that water conservation and efficiency improvements in Las Vegas/ Clark County can defer or even eliminate the need tor the SNWA GWD Project, even with increased drought in the Colorado River Basin. This needs to be stated in the EIS at least in Section 1.6 and Chapter 2 und r Alternatives.	The draft and final EIS included the SNWA Water Plan (2009) which discusses their current actions and future plans regarding the topics brought forth in your comment. The BLM has considered your comment and the information in the SNWA Water Plan in its choice of the agency preferred alternative presented in this final EIS. The information in this comment will be provided to SNWA for their use in future water resource planning. Refer also to Standard Resource Responses GEN-3 and SocEcon-2 for additional information.

Comments and Responses - Tribal Government

ID	Comment	Response
35899-11	On Page 1- 13, the BLM slants projections of water conservation targets and Colorado River Basin drought in favor of the GWD Project. The BLM's position in the NEPA/ EIS process is not to advocate for the project or project proponent, but to develop an appropriate purpose and need for the proposed project. Because the purpose and need statement provides "a framework for issue identification" and forms "the basis for the eventual rationale for selection of an alternative" (BLM Handbook at 36), the BLM must provide an adequate framework in the purpose and need section that can address or set the stage for selecting a range of the alternatives presented. That said, the BLM must add content to the Section 1.6 that briefly describes alternative water demand and conservation projections. Such information is available from Cooley et al. (2007) 1 and Gleick and Cooley (2011).	Based on this and other comments, the purpose and need statement has been revised. Additional information has been added to section 1.6. Please see standard resource response Gen-9.
35899-12	The range of alternatives provided in this SNWA DEIS is inadequate because all of the alternatives that have been listed and described show significant impacts on resources. None of the alternatives significantly reduce resource impacts sufficiently enough for a preferred alternative with significantly less impacts to be selected. The BLM must identify an additional alternative that would greatly reduce impacts and analyze those impacts according to NEPA requirements.	The BLM identified alternatives (see sections 2.1 and 2.2) that utilized the Congressionally-mandated LCCRDA corridor south of the White Pine County line and presented a range to encompass analyses related to pumping volumes, pumping locations and concentration of pumping activities, valleys where pumping could occur, and alternative pumping scenarios. BLM Best Management Practices, Applicant-committed Measures, Stipulated Agreements signed by the Department of Interior Bureaus, and additional mitigation and monitoring presented both in the FEIS and in additional plans drafted by the BLM will help to protect the environment from large-scale damage to the extent possible.
35899-13	No alternative was provided in this DEIS that excludes groundwater pumping in Spring alley. The BLM should add an 'Alternative F' that would analyze groundwater pumping only in Cave, Dry Lake and Delamar valleys.	Please refer to standard resource response Gen-5 for information on this topic.
35899-14	A preliminary constraints analysis for the SNWA GWD Project would have indicated a high level of resource constraints in Spring Valley, but the DEIS failed to "identify any methodologies used" in the identification process for alternatives - a requirement under 40 CFR 1502 and an issue of noncompliance under NEPA.	The BLM identified alternatives (see sections 2.1 and 2.2) that utilized the Congressionally-mandated LCCRDA corridor south of the White Pine County line and presented a range to encompass analyses related to pumping volumes, pumping locations and concentration of pumping activities, valleys where pumping could occur, and alternative pumping scenarios. BLM Best Management Practices, Applicant-committed Measures, Stipulated Agreements signed by the Department of Interior Bureaus, and additional mitigation and monitoring presented both in the FEIS and in additional plans drafted by the BLM will help to protect the environment from large-scale damage to the extent possible.
35899-15	Further, the best available data and resource documentation that has been part of this EIS process indicates that significant impact in Spring Valley will be imminent and potentially irreversible. While NEPA requires the formulation of alternatives to the proposed action, NEPA also requires the formulation of "appropriate alternatives" that can reduce substantial and irreversible harms to the human environment. That said, an obvious reasonable alternative must be no groundwater development in Spring \ alley. This alternative should be developed and analyzed and the DEIS should be redraft d and recirculated tor a second round of review and comment.	The BLM identified alternatives (see sections 2.1 and 2.2) that utilized the Congressionally-mandated LCCRDA corridor south of the White Pine County line and presented a range to encompass analyses related to pumping volumes, pumping locations and concentration of pumping activities, valleys where pumping could occur, and alternative pumping scenarios. BLM Best Management Practices, Applicant-committed Measures, Stipulated Agreements signed by the Department of Interior Bureaus, and additional mitigation and monitoring presented both in the FEIS and in additional plans drafted by the BLM will help to protect the environment from large-scale damage to the extent possible.
35899-16	Given that groundwater pumping and construction activities would: severely impact cultural resources in the valleys, the SNWA must commit to a significant number of ACMs. The Tribe is opposed to allowing SNWA's ACMs on cultural resources to be completely embodied in a PA that the Tribe is not a party to nor has agreed to (see Page 2- 42).	The Programmatic Agreement has been revised for the FEIS and has been executed by authorized parties. Please see appendix F3.16. Tribes have been invited to sign as a concurring party. Whether or not, your tribe has signed the agreement, you would continue to be involved in the on going process via government-to-government consultation. Additional mitigation for cultural resources has been devised through the EIS (see section 3,16). All mitigation has been compiled and discussed in section 3.20.
35899-17	Regarding ACM .2.9, 10 on Page 2-40, it is scientifically very well established that the restoration of Great Basin and Mojave vegetation and wildlife habitat requires decades to return to pre-disturbance conditions and noxious weeds can be problematic for decades as well. Thus, it is unreasonable that SNW would only monitor restoration success and noxious weed conditions for 7 years post-construction, e en with the potential for restoration activity revisions. SNWA must commit to decades of adaptive management, restoration, and monitoring on this particular ACM.	Thank you for your comment. Please see Standard Resource Response MM-1.
35899-18	The Proposed Action and Alternatives are inherently flawed because the BLM falls back on the Stipulated Agreements as a key document that would provide mitigation and monitoring for the SNWA GWD Project. The Tribe does not agree with the Stipulated Agreements, was never consulted regarding the Stipulated Agreements, and the BIA v. as a party to those agreements, but acted without the Tribe's knowledge and approval. The BLM must develop at least one alternative that does not irreparably and irreversibly harm Tribal resources.	Thank you for your comment. Please see Standard Resource Responses MM-1, MM-2 and MM-3.
35899-19	Further, there are several problems with the alternatives analysis. First, the No Action alternative assumes that an inappropriate level of future water rights would be developed. The No Action alternative should only include existing rights or pumping. Because of the BLM inappropriately designed the No Action alternative to include some future anticipated developments, the within-project impact analyses for the Proposed Action and Alternatives are skewed. The No Action alternative must be crafted so that impacts from the proposed action and various alternatives can be estimated or predicted with certainty. As is, the impact analyses for the different alternatives cannot be solely identified to the Proposed Action or any one Alternative.	The BLM carefully developed the no action alternative with input from the scoping information, the cooperating agencies and many others. This alternative conforms to BLM policy and directives. Please see standard resource response Gen-10 for more information on this topic.

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ID	Comment	Response
35899-20	This section failed to address how minor changes to construction locations and ground disturbance can and are likely to occur following the EIS ROD. Even minor changes in construction locations and ground disturbances can have significant impacts on cultural resources and other natural resources. This portion of the DEIS failed outline a sufficient plan for minor changes in construction locations and ground disturbances and failed to include Tribal monitors and approval prior to acceptance of such changes in order to protect cultural resources and values.	Chapter 1 has been revised to better describe the process for changes in the construction sites and alignment. Chapter 1 also outlines the BLM approval process of a detailed plan of development that must be prepared by SNWA before BLM will issue a notice to proceed (NTP) for construction. No NTP would be issued until all work on class 3 on-the-ground cultural resource inventories and any subsequent studies are finished and accepted by BLM and the final designs have incorporated avoidance or protections have been developed. The PA describes tribal monitoring during construction.
35899-21	The BLM failed to require any ACM or other mitigation to place groundwater wells in areas that completely avoid cultural resources or other tribal values. In the last sentence of paragraph 2, Page 2-48 under Set 2.6.1, the BLM states that "groundwater wells would be distributed across the hydrologic basins with the objective of minimizing effects on senior water rights or areas containing water-dependent sensitive or listed species and their habitats." The groundwater wells must b distributed in areas that minimize or avoid any impacts to cultural resources. This should be added to the BLM' s statement.	Thank you for your comment. Please see Standard Resource Response MM-1.
35899-22	In general, the Tribe disagrees with the fact that the BLM has developed an EIS and analyzed potential impacts on resources when it is still unknown as to how much water will be appropriated to SNWA by the Nevada State Engineer. Because the SNWA's water rights appropriation are currently undergoing NSE hearings and there has been no final ruling on SNWA' s water rights, the BLM's analysis groundwater drawdown impacts is speculative. Therefore, the BLM must generate a DEIS for this project once the NSE has ruled on SNWA' s water rights applications.	The FEIS includes the recent NSE rulings and these have been incorporated into the agency preferred alternative.
35899-23	Any consideration of alternatives prior to the final decision of the Utah-Nevada Snake Valley Agreement on the appropriation of interstate groundwater is premature and unfair to the Tribe and general public. Moreover, the BLM cannot make a decision on the ROW until after the UT-NV agreement has been decided. The BLM must reissue the DEIS with appropriate alternatives that follow the bi-state agreement regarding Snake Valley groundwater. As is, the alternatives give only a very limited decision space regarding what will happen regarding ROW and final EIS / ROD for Snake Valley water.	BLM has no role in the management of Nevada water rights, especially not the division of water allocations between states. Conversely, the states do not have a role in the processing of ROW on federal land. However, in the case of this project, both processes inform the other's. If the ROD contains a decision that involves Snake Valley, activities under the ROW within Snake Valley, would be dependent on the interstate agreement being in place. It would also need to be incorporated into the comprehensive POD that BLM must approve before any NTPs for construction could occur in Snake Valley. Chapter 1 contains discussion on the many additional permits and requirements that SNWA must comply with before they can implement this project.
35899-24	The Tribe nor its representatives were invited or permitted in participating in the Natural Resources Technical Task Group that made critical decisions on project study area boundaries, data sources, analysis techniques, reviews, and other topics.	The Natural Resource Group was tasked with compiling all known baseline information on the biological and soil resources in the project area. Members of the group (biologists and soil scientists) included agencies with geographical jurisdiction and current inventory data or baseline information that would assist BLM in analyzing the effects of the proposed project and the alternatives and insure that BLM was meeting all federal laws and concerns.
35899-25	The Tribe opposes the delineation of the study area boundaries without significant input and approval by the Tribe.	Thank you for your comment. The study boundaries were set through the application of NEPA guidance and a thorough review of the baseline information. The Natural Resource Baseline Summary Report compiled all known natural resource data and set a study boundary that encompassed an area that covered all resources discussed in the report. The Hydrology Baseline Characterization Report set the groundwater analysis area based on the flow systems present in relationship to the pumping basins. For the EIS, study areas were set for each resource or in the case of wildlife, each species, based on the baseline information and/or the range of the species and/or resources.
35899-26	The Tribe should have been a participant in the work group process to identify and obtain relevant information on resources that would be used in collecting baseline data for the DEIS effort. As such, this DEIS has failed to gather the best available scientific and commercial data available for use in the impact analyses.	Please refer to the response to comment #24. Since specific information was not provided on what scientific or commerical data is missing in the EIS analysis, BLM cannot make changes to the document based on this comment. During government-to-government consultation, BLM has asked tribes to provide natural resource or hydrology information at face-to-face meetings, at tribal council meetings, and at intertribal workshops and meetings. In addition, 2 letters were sent to tribes requesting specific information on tribally sensitive plants and animals. Any information provided by the tribes have been incorporated into the EIS.
35899-27	The BLM states that a key part of bas line data collection for Native American Traditional Values was the preparation of an Ethnographic Assessment. The Tribe should have had a lead role in the development of any ethnographic study. The Assessment remains with major gaps in ethnographic information and is grossly inadequate for the purpose of informing the DEIS. As such, the Tribe has opposed the Ethnographic Assessment and has never approved the draft nor final Ethnographic Assessment used for this DEIS. A project of this magnitude with its potential for such catastrophic impacts on tribal resources, on and off reservation or fee-title lands, never should have allowed the assessment of the Tribes history and other ethnographic information to be conducted by non-Tribally selected persons or organizations. Thus, the Ethnographic Assessment should be rendered invalid until the Tribe has the opportunity to both provide a corrected version of the assessment and approve the use of the assessment. Because the Ethnographic Assessment is incomplete and does not disclose all available information for use in the EIS, this DEIS is still problematic for the Tribe under CEQ NEPA regulations Section 1502.22 that require an EIS to disclose any incomplete and unavailable information. The DEIS does not disclose incomplete and unavailable information regarding Native American Traditional Values.	The ethnographic assessment prepared to assist the EIS analysis was consistent with BLM Manual 8160. The assessment was considered comprehensive enough to fully inform a regional scale EIS such as the one done for this project. However, BLM is fully aware that there is additional work that should be done, which is covered by the processes outlined in the PA as additional government-to-government consultation work. BLM agrees that additional information on Native American lifeways and history may be valuable as the NEPA process unfolds and would be very relevant to inform subsequent tiers of the NEPA process. Additional text has been added to the incomplete and unavailable information section in Chapter 3 relevant to this comment.

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ID	Comment	Response
35899-28	Given that Wildlife Information and Species Status Species lists are not available, it is unduly restrictive to the Tribe and the general public not to have an opportunity to review and comment on potential environmental impacts on those species from this SNWA GWD project. The Tribe requests an opportunity to review and comment on the Nevada Wildlife Action Plan and Avian Protection Plan in relation to this EIS when those documents become available prior to the release of the final EIS. Many species hold significant cultural and traditional value to the Tribe. Protection and proper management of such values is critical for our Tribe and its members.	The FEIS analysis reflects the updated BLM Sensitive Species list and considers the Draft revised Nevada Wildlife Action Plan (NWAP). The analysis in the DEIS used the previous versions of these two documents which were publically available. Public comment on the NWAP is being addressed by the NDOW and is beyond the scope of this EIS analysis. The USFWS has not yet determined if an Avian Protection Plan will be required, however, the groundwater development project must be in compliance with the Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, IM NV 2010-034, IM 2010-156, and IM NV 2010-063 before the Notice to Proceed can be issued. SNWA is required to continue consulting with the FWS, and a Notice to Proceed will only be issued after BLM receives notification from the FWS that the project is in conformance. Additionally, FWS does have a tribal consultation obligation that they followed during their ESA process.
35899-29	This section of the DEIS is flawed because the BLM does not adhere to DOI Secretarial Order 3226. The Tribe disagrees strongly with BLM's approach and decision not to analyze potential climate change impacts associated with groundwater drawdown, required under DOI Secretarial Order 3226, when considering this DEIS. The BLM suggests that "the current state of climate change science prevents the association of specific actions with specific climate-related effects .... " The BLM continues that it is not possible to "(a) analyze the climate-related effects of BLM actions nor (b) ascribe any significance to these potential effects (Zahniser et al 2009). Interestingly, the BLM cites Zahniser et a! when in fact the current state of climate change science and ecological modeling provides scientifically sound approaches to examine how specific BLM actions will impact specific resources. just like any other analysis of environmental impacts, there is a level of uncertainty that surrounds projected impact · on resources. Impacts attributable to climate change and/ or the compounding effects of BLM actions plus climate change will invariably have a level of uncertainty. For example, a large number of studies have examined how climate change is likely to impact vegetation communities, biodiversity, and specie, distribution ·. Specific BLM actions, such as permitting the groundwater extraction of 170,000 afy of water from various basins, can be combined with downscaled climate models to determine impacts on specific resources. A reasonable range of outcomes can be disclosed as well as the level of uncertainty in those resource impacts. Moreover, BLM must consider and disclosure proposed action/ alternative contributions to climate change or mitigation. The BLM must also disclose and compare their contributions or mitigation to relevant climate drivers. These recommendation by Zahnisr et al. (2009) must be adhered to if the BLM has chosen a elect few other recommendations from Zahniser et al.	Please refer to standard resource response Air-17 for information on this topic.
35899-30	Particularly regarding Figure 3.0-2 on Page 3-10, the process for analyzing groundwater pumping effects on environmental resources is flawed on several counts. Native American Concerns are only represented and analyzed regarding surface water sources. This exclusion of Native American concerns from other subcategories of analyses is incorrect and fails to adequately consider Native American Concerns. As is the above referenced figure is incorrect and is insufficient for correct representation of environmental consequences. Given that this conceptual framework for analyses appear to affect what was analyzed for a specific resource, the BLM must modify analyses as appropriate to include t he multiple subcategories (surface water sources , vegetation and habitat, phreatophytic vegetation, shrubland habitat) in Native American Concerns. The Tribe must have an opportunity to further review the BLM's methods and results prior to the release of the final EIS. As is, the conceptual framework of analyses is flawed and thus the descriptions of environmental consequences from the Proposed Action and Alternatives are also flawed.	Figure 3.0-2 has been revised to better reflect Native American concerns. Native American concerns on natural and water resources that were relayed to BLM in government-to-government consultation and coordination are as analyzed in the EIS and have been reflected in the FEIS. BLM has not provided a listing within the analyses about which issues and impacts are of concern by which of a myriad of governments, organizations, people and businesses. Without specific information, suggestions, or comments on which modifications the tribe wishes to see in the EIS, BLM cannot further alter the analysis.
35899-31	The BLM mentions the stipulated agreement· and adaptive management plan that identities the goals for addressing adverse impacts, outlines baseline data collection and monitoring programs, and outlines an adaptive management decision process for determining if adverse impacts are occurring, and assessment of appropriate management responses to those adverse impacts. Because this SNWA G\VD project would impact a large number of cultural, traditional, sacred, and water and wildlife resources, the Tribe must be involved in the adaptive management process. This element of the adaptive management framework was not included. Given that the BIA signed stipulated agreements without the consent of the Tribe, the Tribe was excluded from earlier decision-making regarding the stipulated agreements and appropriate adaptive management and monitoring plans. Without appropriate Tribal input, the determinations of adverse impacts to cultural and traditional values and resources are inherently flawed and represent biased decision-making process. By the same token, the assessment of mitigation effectiveness of cultural and traditional values and resources must have Tribal experts and decision-makers involved in any determinations of appropriate mitigation and mitigation effectiveness. Thus, the BLM must modify the decision-making process and update the DEIS to reflect those changes where appropriate.	Government-to-government consultation between the BLM and Tribal governments has been and will continue to be conducted for the proposed project. The consultation process provides an opportunity for the Tribes to express their concerns and to provide input. The Tribes have been invited to participate in the Programmatic Agreement (PA) as concurring parties. The PA outlines the process for identifying historic properties, as well as places of tribal importance; determining adverse effects; and, developing appropriate measures to avoid, minimize, or mitigate effects.
35899-32	In the project area figures , the BLM includes administrative boundaries for some entities, but excludes Tribal administrative boundaries. The BLM must include Tribal administrative boundaries in all maps that illustrate other administrative boundaries.	Tribal boundaries have been added to Figure 1.1-1. Additionally, two figures have been added to Section 3.17. One shows the tribal reservation boundaries, and the other shows the judicially recognized areas. It is not practical to put all administrative boundaries on all maps. Doing so would potentially mask the resource data that they are intended to convey.

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ID	Comment	Response
35899-33	The BLM failed to provide justification as to why the 75 and 200- year intervals after full build out were select d for analysis in the EIS Affected Environment section. Similarly, the BLM failed to disclose any and all drawbacks of using the 75 and 200 year intervals versus other time intervals.	Please see mitigation measure WR-2.
35899-34	The BLM failed to adequately disclose and describe impacts on air and atmospheric values. The BLM failed on several counts to adequately disclose key information: Table 3.1 - 1 data are 13-18 year old. BLM did not justify the use of these data, e.g., no other data available, best data to show variations and exceptional events, or the like.	Thank you. Based on this comment, the text has been modified.
35899-35	The BLM did not identify exact locations of air quality monitoring station in Great Basin National Park. Locations of air monitoring stations influence the data recorded and BU.il failed to identify such key information.	The Great Basin monitor is located inside the park boundaries and within the area analyzed for pontential project impacts.
35899-36	BLM failed to state why different years of data are displayed for each monitoring station in Tables 3.1-2 thru 3.1-4. BLM must provide the same data in each of those tables to allow for appropriate comparison between sites, PM size concentrations, and years, etc. If those comparisons are not possible due to data availability, BLM must state the appropriate justification in text or tables.	Thank you. Based on this comment, the text has been modified.
35899-37	BLM failed to define Class I, II, and III air quality categories according to applicable data.	Refer to Section 3.1.1.2 paragraph "Preventaion of Significant Deterioration."
35899-38	BLM also failed to provide a measure of time for current nitrogen deposition trends, which it states is 2 kg/ ha. I· this annually? Must provide clarification here.	Based on your comment the FEIS has been edited to clarify. Thank you.
35899-39	In the Climate Chang subsection, BLM states that the projected effects from climate change are likely to occur over several decades to a century, but stated thereafter that projected changes associated with climate change may not be discernible within the reasonably foreseeable future. Several decades would seem to be the reasonably foreseeable future . The BLM failed to disclose an specific cut-off for reasonably foreseeable future in number of years. The scientific literature is replete with examples of projected environmental changes associated with climate change in the 100- 200 year time frame. For the BLM to state otherwise is incorrect and not based on the best available scientific and commercial data.	While the project's potential impacts can be estimated with respect to specific timeframes, the variability and uncertainty of climate change prevent an assessment of specific effects during specific timeframes. Please see standard resource responses MM-1 and MM-2 for more information on this topic.
35899-40	The BLM relies heavily on climate change research papers published in 2007. The Tribe suggests supplementing those references with more current references, especially given the rapidity of changes in climate research and more current publications available now. Moreover, the BLM seems to rely heavily on the Redmond Report (2009). BLM states on page 3.1-11 that Redmond Report analyzed different "climate models for a grid cell containing Spring Valley." This statement is overly vague and carries essentially no meaning, given that any grid cell size would "contain" Spring Valley. BLM should simply state plainly what the grid cell size actually was that Redmond used in his models.	Based on your comment the FEIS has been edited to clarify. Thank you.
35899-41	On Page 3.1 - 19, BLM states that ACMs that will reduce windblown dust include the development of a Restoration Plan. The development of a written plan in and of itself does not reduce windblown dust; it is the implementation of the plan via various on the ground actions that can reduce windblown dust. If the BLM means that the implementation of that Restoration Plan should help to reduce windblown dust, the Tribe suggests the appropriate language change.	Thank you. Based on this comment, the text has been modified.
35899-42	On Page 3.1-33, the BLM seems to rely Papendick (2004) to estimate air impacts based on possible changes in vegetation cover and soil structure, indicating that the soil loss ratio is predicted to be 10% of bare soil conditions. The BLM continues that based on that 10% of surface area composed of the particular ET unit, only 10% of surfi.tce area of the project site would be susceptible to wind erosion from groundwater drawdown. It is unclear as to how Papendick's work on wind erosion and air quality on the Columbia Plateau directly translate to the Great Basin in eastern and southern Nevada. Instead of using data from a different geographic region, the BL\1 must use available data to more accurately predict wind erosion and air quality impacts within the proposed project area. There are the air studies that were used to make predictions of windblown dust emissions from groundwater drawdown? The Tribe is not convinced that only a 10% area within the project site boundaries will be altered via groundwater pumping whereby ground surfaces become more susceptible to wind erosion because of changes in vegetation community composition or changes to bare soils. The reliance of Papendick' s work (2004) from the Columbia Plateau is not sufficient to make the estimates that the BLM has provided.	Please see common repsonse Air-21.
35899-43	On Page 3.1 - 37 and 38, BLM failed to quantify and state specifically the greenhouse gas emissions that would be offset by installing solar panels to power monitoring wells and hydroturbines. The BLM failed to provide this information in subsequent similar sections for each alternative.	Please see common response Air-19. The amount of energy generated by renewable resources is an estimate and unknown at this time.

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ID	Comment	Response
35899-44	Under sections 3.1.2.15 and 3.1.2.16, the BLM provides a very misleading comparison of windblown dust emissions across alternatives. By definition, the total amount of windblown dust emissions tor the Proposed Action and Alternatives A- E include emissions from the No Action Alternative. Concentrating on "project- alone impacts" or the contributions tram alternatives in excess of the No Action emission estimates provides a misleading portrait of impacts. The BLM must provide text and tables that illustrate the combined emissions, not provide footnotes or parenthetical statements are highly significant in understanding the emissions data. The combined emissions from the ;'-.Jo Action alternative and the other alternatives is key; as such, the BUM must illustrate those data, rather than have the public work to add or create their own tables of emissions data to figure out the numbers that should really be compared.	The text has been revised to clarify.
35899-45	On Page 3.1-60, the BLM makes overly vague statements such a : "very small fraction of wind erosion emissions from the cumulative project area" that is expected to be transported to Salt Lake County, Utah.	Please refer to standard resource response Air-8 for information on this topic.
35899-46	Throughout this air resources section, the BL\t1 states that potential impacts on air resources, or windblown dust emissions from groundwater pumping effects, are highly uncertain. This is not necessarily true. There are numerous ways to model the effects of groundwater pumping and climate change on windblown dust emissions, such as process-based numerical modeling tor vertical moisture flow in the unsaturated zone. ·while there will be some degree of uncertainty in any model, it is very unlikely appropriate methods would produce a result that simply says the model is "highly uncertain", especially given that previous modeling effort of the same type have yielded results with an acceptable or low level of uncertainty. Models can be calibrated using climate station data. Almost invariably, research on the effects of groundwater withdraw in the range of 3- 10 or more meters and or effects of climate change indicate that groundwater drawdown of 10m or more results in dust emissions that are close to their maximum value. Further, research has demonstrated that small increases in water-table depth result in large nonlinear increases in windblown dust emissions. Rather than making statements that the groundwater drawdown effects on windblown dust emissions will be highly uncertain, or that results are only for comparative purposes, the BLM must provide additional statements regarding how small decreases in groundwater are likely to cause large increase, in dust emissions .	Please refer to standard resource responses Air-9 and Air-10 for information on this topic.
35899-47	Cumulative impacts section do s not contain any statements of the combined impacts of groundwater drawdown and climate change on windblown dust emissions even after both sections are provided. BLM tailed to provide the appropriate cumulative effects analysis. BLM must provide an analysis of those cumulative impacts. There is sufficient data to analyze those effects. Because groundwater drawdown itself or climate change itself are likely to cause nonlinear increases windblown dust emissions for the region, the BLM mu "t list what those combined effect will be on air resource.	Please see common responses Air-20 and Air-15.
35899-48	Instead of providing the analyses mentioned in the above statements, the BLM t ends to focus on making statements that downplay dust emission that are likely to r suit from groundwater pumping. BLM also avoids the necessary analyses as mentioned above with filling this cumulative effects section with statements of the "adaptive management program for Snake Valle) is currently under development. As currently proposed, the adaptive management program would include continuous air quality monitoring .... to assess air pollutant transport more accurately and develop thresholds .... " This statement about the potential for air quality adaptive management in Snake Valley is absolutely unnecessary for each Alternative; rather , it should be stated once in its own subsection and BLM should focus the cumulative effects section on concrete or predicted changes in air quality I dust emissions as a result of groundwater drawdown and climate change for the project area. An analysis of cumulative effects is incorrect if it doe not focus on cumulative effects, which this section does.	Please refer to standard resource responses Air-7 and Air-20 for information on this topic.
35899-49	In Figures 3.1-7 and 3.1-8, the BLM makes it ambiguous a to how the tons of PM per year relate to National, Nevada, and Utah ambient air quality standards measurements in the figures are provided in tons of PM per year; whereas National and State standards are given in micrograms per meter.	Please refer to standard resource response Air-9 for information on this topic.
35899-50	The cumulative effects analysis for Air and Atmospheric Values failed to address reasonably foreseeable future actions, mitigation, and regulatory caps, including for emissions from right of way construction, fugitive dust and tailpipe emissions from construction and facility maintenance , climate change, and from visibility subsection. These issues must be provided in the EIS prior to release to the public in order for the public to have a reasonable opportunity to review the cumulative impacts on air and atmospheric values.	Changes have been made in the FEIS text to address the central concern that underlies this comment; however, due to its overarching nature, specifics regarding the placement of changes in the FEIS are not provided in this response.
35899-51	The geologic section makes clear that there is insufficient information to correctly evaluate the potential impacts on paleo resources, subsidence , caves, etc. Even till, using averaging of other southwestern regions, the potential for ground subsidence is significant over the long term, especially in Spring \ alley, for many of the Alternatives and Proposed Action. Preventing such catastrophic ground subsidence is a major issue and the BLM should provide guidelines for mitigating subsidence impacts. In several places throughout the section, BLM stated mitigation measure for subsidence do not occur, or do not occur in RMPs, BMPs, or ACMs. BLM should develop mitigation measures and offsets for subsidence impacts.	Monitoring and mitigation measures related to groundwater pumping impacts are focused on the framework and process at this stage of the project. Costs can be estimated when specific details are defined for these measures. Costing could be initiated after the Record of Decision for this EIS is completed and continue into subsequesnt NEPA analysis.

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ID	Comment	Response
35899-52	The BLM failed to utilize all of the best available scientific and commercial data tor pal o resources. The records search tor paleontological resources was limited, only the San Bernardino County Museum (Scott 2008), Page 3.2-9. Other sources of information exist that should have been included in the r cords s arch.	Thank you for expressing your concerns. While statements of opinion do not require specific responses or text revisions under the NEPA regulations, they will be considered by the BLM and documented in the administrative record associated with this EIS.
35899-53	It is unclear as to whether or not construction monitoring for fossils or other paleontological resources will occur. Construction monitoring should be required in addition to any BLM B~ IPs and ACMs to provide opportunities for fossil/paleontological resource discoveries, proper documentation once discovered, proper curation, and overall reduced impact on paleo resources. Construction monitoring of post-excavation materials is important because it allows for additional discoveries than would be possible from ACM A.6.1 field surveys that only observe surface exposures. Buried fossils are likely to be uncovered from construction activities, and thus construction monitors are required to examine excavated/ construction areas.	ACM A6.1-3 calls for pre-construction surveying, monitoring in high potential areas during construction activities, salvage of important resources, and curation of specimens.
35899-54	The BLM is recommending subsidence monitoring and modeling in the event that the Project moves forward. Because subsidence may impact resources that are culturally significant to our Tribe, the Tribe must be consulted on any sort of subsidence monitoring and modeling efforts.	As part of ongoing government-to-government consultation, tribes will receive updates on subsidence and other technical information throughout the life of the project. Tribes will also be involved, as they wish, through the mitigation process as described in section 3.20.
35899-55	Flawed recharge estimates for the groundwater model. The SNWA groundwater model bases available water within a specific basin based almost solely of recharge within that same basin. Estimated discharges are used to calculate recharge. This approach is flawed because the analysis fails to take into account that inflow to a basin (including recharge and interbasin flow) must equal outflow of the basin (including groundwater evapotranspiration and interbasin flow). The SNWA groundwater model incorrectly treats groundwater evapotranspiration and interbasin inflow/ outflow as known values. Moreover, the SNWA model allows for recharge anywhere in the basin to satisfy discharge anywhere in the basin. This is incorrect and is substantiated from numerous research reports, including BARCAS. It is inappropriate to treat a single basin as a single cell or unit (i.e., closed system) because basin and interbasin flows are dynamic, not confined to just the single subject basin. As a result, the SNWA model's power function coefficients were established in such a way that allowed for efficiencies and PRISM precipitation estimates to yield SNWA' · necessary recharge anywhere in the subject basin, no matter the location of recharge in that basin.	See response WR-19.
35899-56	Flawed interbasin flow estimates. The SNWA model estimates flow based on Darcy's law. Three sources of error exist regarding the interbasin flow analysis approach: hydraulic gradient, hydraulic conductivity, and cross-sectional area. SN\V A incorrectly used straight lines between two wells to determine hydraulic gradient. SNWA used cross-sectional area estimates as assumptions with no justification. SNWA does not constrain flow estimates based on water budgets. BARCAS found that recharge far exceeded discharge in Steptoe Valley, that discharge from Snake Valley required interbasin flow to satisfy discharge, and that inbasin recharge was al so needed to meet discharge in Snake Valley. SNWA groundwater model does not consider t his interbasin flow, resulting in a model that requires more recharge to be generated to satisfy their discharge in subject basins. The SNWA model also prevents or limits interbasin flow, which was based on geological assessments that made hydrologic conclusions with no hydrologic data or modeling.	See standard resource response WR-24 regarding inter-basin flow estimates.
35899-57	Flawed estimates of flow from Steptoe Valley. The SNWA model assumes that there is no interbasin flow from Steptoe Valley based on geologic arguments. The BARCAS estimate of flow from Steptoe Valley into White River Flow System is 8000afy. Both BARCAS and Laczniak et a! (2008) showed that 52600 afy of groundwater was available for discharge from Steptoe Valley as interbasin flow. This 52600 at)• was in excess of the 101500 afy discharged via ET. SNWA completely dismisses this type of information in constructing their groundwater flow model. This reduces the water available for discharge in the White River Flow System and Spring Valley. Furthermore, SNWA dismisses interbasin flow between Steptoe\ alley to Lake Valley. BARCAS indicated that such flow was permissible. Indeed, BARCAS estimates were such that 20000 afy flows to Lake Valley and 4000 afy flows to Spring Valley from Steptoe. The examples are only for a few subject basins , but there is substantial further evidence for interbasin flow between other basins within the project area that were not considered in groundwater model used in this DEIS.	The estimates of interbasin flow are reasonable and generally fall within range of previously published estimates as described in the Conceptual Model Report (SNWA 2009a).
35899-58	Numerous critical geologic features failed to be part of the groundwater model. Further, the reliance upon fau lts and transverse zones are used to erroneously develop rationale for lack of flow across certain flow paths. The analysis fails to actually use hydrologic data to support conclusion of fault-groundwater interactions.	See Response WR-3 regarding the representation of faults in the groundwater flow model.
35899-59	Precipitation estimates are flawed. SN\V used PRISM 1970- 2000 data for annual precipitation data for the subject basins. PRISM data have greatly overestimated precipitation in eastern Nevada. This fact has been admitted by SNWA and its contractors at Desert Research Institute and elsewhere several times during the 2011 NSE hearings for Spring, Cave, Dry Lake, and Delamar Valleys. Overestimations range from L!-7 inches per year of precipitation. Even estimations of a half inch of precipitation greatly overestimate basin precipitation levels. Such overestimations greatly skew water balance and groundwater availability calculations by SNWA for the DEIS. These overestimation also greatly skew the groundwater drawdown levels and all groundwater associated resource reviewed in this DEIS.	See response WR-22 regarding PRISM data and WR-19 regarding estimation and representation of recharge.

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ID	Comment	Response
35899-60	Spring Valley groundwater evapotranspiration is overestimated by underestimating precipitation and assuming an average discharge that is not representative of longterm averages. SNWS adjusted PRISM grids, but did so by adding the average difference, effectively decreasing precipitation in the groundwater evapotranspiration estimate (and increasing the proportion of ET assigned to groundwater). Yet, precipitation was distributed among basins, which incorrectly resulted in estimating more recharge in basins with overestimations of precipitation. Moreover, SNWA' s model ignores runoff, again causing an overestimation of groundwater evapotranspiration in most years. The model discussion on groundwater evapotranspiration incorrectly integrate spring discharge, particularly in Spring Valley where a large number of springs exist that feed riparian or wet meadow vegetation or open water. The water balance method used by SNWA is likely to be completely incorrect for entire portions of Spring Valley due to those reasons.	See response WR-22 regarding PRISM data and WR-19 regarding estimation and representation of recharge. All of the consumptive uses of ET are well documented and accounted for in the estimates used in the groundwater flow model. See Section 7.0 of the CCRP conceptual model report (SNWA, 2009a).
35899-61	The groundwater models failed to address numerous other critical issues. First, the models do not incorporate how predicted changes in surface water will affect groundwater recharge. Second, the models assume that SNWA will simply pump water amounts that will be lost due to evapotranspiration. The groundwater models failed to address that some vegetation will remain and ET will still occur.	Please refer to standard resource response WR-10 for information on this topic.
35899-62	The BARCAS study by Welch et al (2008) demonstrated that interbasin flow does occur into and out of Steptoe Valley, the White River Flow System, and in various directions into and out of Spring Valley and Snake Valley. The groundwater model's approach to restrict an flow into or out of these basins is flawed given that research has demonstrated varying amounts of interbasin flow. A single valley cannot be assumed to be a single unit or cell for the analysis. In other words, the analysis cannot constrain the flow estimate based on the water budget of a single basin, or based on the source or receiving basin.	The CCRP model accounts for inter-basin flows. External boundary fluxes (flow into or out of the groundwater flow model domain) were estimated independently, not in conjunction with recharge efficiencies (SNWA, 2009b, p. 3-3). See response WR-23 regarding external boundary fluxes, WR-24 regarding inter-basin flows and WR-19 regarding estimation and distribution of recharge.
35899-63	The SNWA groundwater model also is flawed because of the 10-foot groundwater drawdown contour that is sufficiently coarse. This coarse scale is problematic for several reasons. First, groundwater models for the region have been developed for the region that use a 1-foot drawdown contour. Those models are scientifically valid for use in this DEIS impact analysis. Second, the 10- foot contour provides a basis to misrepresent a large number of impacts that would be observed with a model parameterized with the 1-foot contour. It is scientifically unjustifiable to rely on the coarse scale of 10-foot contour for the groundwater model. Moreover, the impact analyses are skewed because the use of the 10-foot contour fails identify any impacts that exist within the 10- feet to 1- foot level. Even groundwater drawdown of several feet can cause spring discharges to be reduced or be eliminated altogether. Thus, the DEIS underestimates the impacts on essentially all resources from groundwater drawdown.	See response WR-1 regarding the use of the model simulated 10-foot drawdown for the programmatic analysis of potential effects to water dependant resources.
35899-64	The project relies heavily on Stipulated Agreements for mitigation. The Stipulated Agreements and other "mitigation" in this section call on "monitoring" and "management plan" as mitigation for impacts on water resources and water rights. Monitoring and planning are not mitigation measures. Thus the BLM has failed to provide adequate mitigation on water resources for this project.	Please see standard resource responses MM-1, MM-2 and MM-3.
35899-65	While concerned that the proposed groundwater withdrawals may injure Federal Water Rights and/ or affect Federal Resources, the DOl Bureaus still entered into the Stipulations. Prior to signing the Stipulations, the DOl Bureaus did not consult with the Ely Shoshone Tribe. This is a clear violation of the Trust Responsibility owed to the Tribe.	Comments on the Stipulated Agreements have been compiled and sent to the executive committee who provides oversight on the implementation of the agreements. Section 3.20 describes how BLM will use the conditions and information generated through the Stipulated Agreement process.
35899-66	The Stipulation call for Monitoring, Management and Mitigation Plans. This is not an adequate mitigation plan. Once impacts are observed and the plans are followed for consideration of the various committees, there may be significant amounts of time that elapses between observation and any action by the Nevada State Engineer to halt pumping. At that time, it will be too late to properly mitigate the effects. Moreover, the monitoring and mitigation plans are toothless -they require unanimous agreement among all members of the committees that would make decisions about whether hydrological and/ or biological measurements are having adverse impacts on resources. At least one member of those committees must be a SNWA representative. Thus, if the SNWA representative fails to agree that pumping should be slowed or halted, the committee body cannot move forward with developing reports or other preparations to recommend pumping changes. That said, there is essentially no mechanism in the monitoring plans would require SNWA to halt or slow pumping if SNWA decides to not recognize impacts or agree to do so.	Please refer to standard resource responses Gen-7, MM-1, MM-2 and MM-3 for information on this topic.
35899-67	The Water Resources section is also flawed because the BLM failed to adequately describe the connection between SNWA's Coyote Spring Pipeline and the SNWA GWD Project that is at issues in this DEIS. The BLM fails to state whether the Coyote Spring Pipeline project is connected to the SNWA G\VD Project, whether it is dependent upon the GWD Project for any justification of permitting, construction and operational components, and whether and to what extent the project is cumulative. While the BLM does address the Coyote Spring Valley pipeline in the cumulative impacts analysis, the BLM fails t o adequately describe those cumulative impacts and fails to present a finding on whether the Coyote Spring Valley project actions are connected or cumulative.	The Coyote Springs Development has been included in the reasonably foreseeeable projects, and its cumulative effects desribed.

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35899-68	Moreover, the cumulative effects analysis is fatally flawed because the DEIS ignores water rights applications within the project area. A large amount of water rights that are in application status should have been, but were excluded from, reasonably foreseeable future action s. These water right , include nearly 500,000 afy and should likely to constitute future uses given that many of the water right would be owned various major water users, including Lincoln County and \'idler Water Company.	Section 2.9.2 provides a detailed description of the groundwater consumptive uses included in the cumulative effects analysis.
35899-69	The cumulative effects analyses are inadequate on several other count s. First, analysis of rights of way effects on surface water does not include descript ion of affect environment, issue caused by reasonably foreseeable future actions, mitigation, nor a regulatory cap.	The BLM believes these analysis elements were addressed under Water Resources cumulative effects.
35899-70	On Page 3.4- 6, BLM states that soils that are saline, sodic, or alkaline have low potential for successful plant re-establishment and growth. While this may be true to some extent, there is an array of options for revegetating areas with saline or alkaline tolerant plants. BLM should require SNWA to develop and implement plant re-establishment/rehab programs that will utilize native species that are tolerant to those types of soil conditions. Wording by the BLM that says soils have low potential for plant rehabilitation sets the stage for uncertain mitigation and reclamation requirement. BLM should add to their statement that although those saline/ alkaline soils have a low potential for plant-reestablishment, particular approaches and plants can be us d t o greatly increase reestablishment.	The impact analyses for both soils and vegetation assume that the applicant-committed measures (ACMs) would be implemented. ACMs A.1.69 and A.1.70 (see Appendix A) state that detailed,restoration plans will be developed as part of the reclamation requirement. The Restoration Plan will take into account the site-specific soils, pre-existing habitat conditions, native vegetation, and monitoring requirements. The plan will comply with Nevada Guidelines for Successful Revegetation and USDA Forest Service guidance, as well as require BLM review and approval. Compliance with the ACMs and Restoration Plan would improve revegetation success evn on soils with low revegetation potential like the saline and alkaline soils referenced in the comment.
35899-71	BLM states that SNWA will submit a detailed reclamation plan to BLM prior to the commencement of construction activities. Given that those construction activities will impact areas that are culturally significant to the Tribe and that reclamation is an essential part of healing those disturbances on our aboriginal lands, the Tribe must have an opportunity to review and comment on any reclamation plans/ activities.	Government-to-government consultation between the BLM and Tribal governments has been and will continue to be conduced for the proposed project. The consultation process provides an opportunity for the Tribes to express their concerns, ask questions, comment on the proposed project, and develop measures to avoid, minimize, or mitigate impacts to places and sites of tribal concern.
35899-72	While BLM provides an analysis of the total ground surface soil-type that would be disturb d from groundwater drawdown, the BLM fails to provide an additional yet necessary analysis of impacts on soils. That impact analysis on soils must quantify the loss of soil. While there are dust emission estimates in Section 3.1, those emissions estimates do not analyze the total loss of soil that would be likely from groundwater drawdown.	As stated in many places in the impacts part of Section 3.4, groundwater drawdown is likely to alter hydric soils within the High and Moderate Risk Zones by decreasing or removing the source of water for these soils. The extent of hydric soils that may be affected in most basins is not great. Groundwater drawdown may cause changes to plant communities if the hydrophytic vegetation cannot be supported but overall percentage of plant cover, which is a key to minimizing wind erosion, likely would remain similar to baseline conditions. Therefore, a significant increase in windblown dust, or wind erosion, is not anticipated to result from groundwater drawdown.
35899-73	No proposed mitigation measures for soil impacts are provided. Even while BMPs and ACMs would be implemented, mitigation and offsets for impacts on soils must be required, especially given impacts on hydric soils. SNWA must be required to protect in perpetuity or re tore other hydric soils and other soil types.	The ACMs include offsetting spring discharges, seeding, and recharge to offset drawdown. The EIS does conclude that there are effects on hydric soils that may not be mitigated but monitoring in key locations could lead to adaptive management strategies that minimize impacts once more is known about drawdown impacts. Maintaining or restoring hydric soils may not be possible in all places.
35899-74	Throughout the Cumulative Impacts section, BLM states that "adaptive management measures ... would reduce effects on hydric soils" and that "SNWA's use of agricultural water rights in Spring Valley (184)" would "offset changes in spring discharges needed to maintain wet meadows .... " While such an effort may retain hydric soils to some extent, that same effort is likely to result in a changes of biodiversity and species composition for both plants and animals given potentially different water chemistry and temperatures. BLM must require SNWA to address those issues and this should be documented and analyzed in the DEIS.	The Cumulative Impacts sections of Section 3.4 (Soils) reference the ACMs that "could" reduce impacts on hydric soils. It does not state that they "would" reduce impacts. These ACMs include offsetting spring discharges, seeding, and recharge to offset drawdown. These same ACMs may also support biodiversity, but the EIS does conclude that there are effects on hydric soils, plant communities, and wildlife habitat that may not be mitigated.
35899-75	The BLM failed to adequately disclose culturally significant plant resources. While the Tribe provided a list of culturally significant plants to the BLM for informational and planning purposes for the BLM Ely District, the Tribe (1) did not intend that the list of plant species that was submitted would be inserted into the DEIS, (2) did not intend that the list be a comprehensive list of culturally significant plants, (3) did not know that the list of plants we provided would be displayed in the DEIS in the manner shown in Table 3.5-8. This Table 3.5- 8 is incorrect because it implies that each species of plant that is not marked with an "X" is not culturally significant to a particular Tribe. The BLM must coordinate and consult appropriately with the Tribe to ensure that an appropriate plant list for this EIS is provided, whereby a complete and comprehensive list of plant species of cultural significance to the Tribe and its members will be submitted. Furthermore, the "Ely Shoshone Culturally Sensitive Plants" list identifies that "this list augments the list submitted by CTGR!" As a result, all plants identified by the CTGR as culturally sensitive should be marked with an "X" for Ely Shoshone. The combined list of CTGR and Ely Shoshone cannot and shall not be construed as a final list of culturally sensitive plants, and that list for Ely Shoshone that would be included in the FEIS is not a final and complete list until approved b) the Tribe.	The plant list has been revised to show all CTGR plants as Ely Shoshone plants also. Ongoing government-to-government consultation may result in additional plant and animal species that are culturally important to the Ely Shoshone and other tribes being identified. These will be considered and addressed as the project is implemented (if the project is approved). The species list, as edited through ongoing consultation, will be provided to FWS and other agenices for consideration in public land management actions. While it would be beneficial to have a final list of tribal culturally important plants, we understand that tribes, as with other governments, are updating their information routinely and often.

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35899-76	The BLM has failed to adequately mitigate impacts on vegetation resources. The BLM identifies on Page 3.5-24 that "pipeline, power facility, aboveground facility ROW, construction access roads, and temporary construction area_ would remove vegetation for the long-term from approximately 12,300 acres. Of this amount the land cover types that would be most affected include: sagebrush shrubland (48 percent); Mojave mixed desert shrubland (25 percent); and greasewood/ saltbush shrub land (24 percent)." In the following paragraph, the BLM states that restoration techniques presented in the SNWA POD "would minimize the duration of vegetation disturbance and provide the framework for a successful vegetation restoration program." The SNWA' s proposed rest oration plan and monitoring protocols are minimalistic, stating in Appendix E that restoration monitoring would occur for up to seven (7) years. A seven-year monitoring framework to evaluate the success of a vegetation monitoring program in the Great Basin and Mojave Desert would be completely unable to evaluate the success of a restoration program, especially given the vegetation community recovery times for those particular ecoregions and vegetation types. BLM even identifies in Table 3.5-9 that the estimated vegetation community recovery time for (1) sagebrush shrubland is 20-50 years, (2) Mojave mixed desert shrubland is 100- 200 years, and greasewood/ saltbush shrubland is 20-50 years. Sagebrush shrublands in the Great Basin, for example, are known to enter multiple premature stable states during restoration/ reclamation efforts, greatly prolonging the ability of such vegetation communities to be fully restored to pre-existing conditions within the 20-50 year time frame. A 7-year restoration monitoring program that would only be able to evaluate the very beginning of the restoration. Therefore, the proposed 7- year monitoring program is completely insufficient to evaluate successful restoration of vegetation communities that require anywhere from 20-200 years to be restored. The BLM must require the appropriate time needed for restoration monitoring.	Thank you for your comment. Please see Standard Resource Response MM-1.
35899-77	Given the cultural significance of the proposed project area, the cultural significance of particular vegetation communities, and the cultural significance of a large list of plant species important to Tribal members, the Tribe must review and participate in restoration planning and monitoring efforts. The Tribe must review the specific thresholds and criteria for what would be considered successful restoration.	As part of ongoing government-to-government consultation, tribes will receive updates on this issue and other technical information throughout the life of the project. Tribes will also be involved, as they wish, through the mitigation process as described in section 3.20.
35899-78	The BLM makes false assumptions about restoration for mitigation efforts, thus providing additional inadequate mitigation measures. For example, on Page 3.5-25, BLM states that over 11,100 acre, of native shrub lands and woodlands would be available for restoration, given that 1,004 acres would be permanently converted to industrial facilities or surfaces. Restoration efforts in the Great Basin and Mojave deserts are typically unable to be fully restored, leaving a permanent mark on the landscape. BLM makes the assumption that the 11,100 acres will be restored without question even given the long recovery times. There is no mention in this DEIS that the restoration or recovery of Great Basin sagebrush shrublands has been severely limited over the last 100+ years and non-native species are becoming more problematic for those recovering communities. BLM must provide a realistic assessment of the likelihood of no recovery, partial recovery, and full recovery of the various vegetation communities. Without such an assessment or as the DEIS stands, the BLM makes unrealistic assumptions about restoration and evades any mitigation and offset requirements.	The newly rewritten section 3.20 sets out a process to evaluate the restoration and mitigation of the project through an interagency process that includes tribes. SENT TO ROLLIN
35899-79	In the restoration plan submitted by SNWA that would be approved by the BLM, as mentioned in this section and Appendix E, the BU.1 must add a stipulation to the restoration agreement whereby if restoration of vegetation communities is unsuccessful within an allotted time, then the SNWA must be required to mitigate and/ or offset those damages to vegetation communities via various actions, including the protection of off-site vegetation/ habitat areas in at least a 1:1 ratio of unrestored to protected. The BLM must consult with the Tribe on this matter.	Section 2.3.1 and Table 2.3.1 contain BLM best management practices to be utilized. BMP-Vegetation #6 and #7 give specific standards for successful reclamation.
35899-80	The BLM failed to adequately disclose and describe "highly specific plant gathering area." On Page 3.5-30, the BLM states that no "highly specific plant gathering areas" were revealed from ethnographic interviews that would be affected by the proposed project disturbances. There are no specific criteria that must be met in order for areas to be qualified for inclusion in "highly specific plant gathering areas." If such criteria were to exist, it would be criteria set forth by the Tribe. The Tribe was not notified that the type of information we provided to the BLM would be considered not sufficient for identifying gathering areas and therefore no impacts and mitigation measures could be associated with those gathering sites. The problem is at least two-told. First, in supplying the BLM with a list of culturally significant plants, the BLM never informed the Tribe of any criteria that would be required in making a "highly localized traditional plant gathering area" determination. The BLM did not give the Tribe appropriate information on how the list of plants would be used in the EIS process. Second, the other problem lies with the ethnographic assessment methods that were used and the lack of information that was provided to the Tribe and Tribal members regarding how the information would be used by the BLM and SNWA for the purposes of this groundwater project or other projects that might impact our aboriginal territory and associated natural resources. The BLM has erred in determining that no highly localized or highly specific traditional plant gathering areas exist for Tribal members based on an ethnographic assessment that was never approved by the Tribe. This comment is intended for the Proposed Action and all alternatives under Sections 3.5.2.1 Rights of Way and 3.5.2.8 Groundwater Development and Groundwater Pumping.	Thank you for expressing your concerns. While statements of opinion do not require specific responses or text revisions under the NEPA regulations, they will be considered by the BLM and documented in the administrative record associated with this EIS.

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35899-81	The BLM did not inform the Tribe of their plan to use the list of culturally important plants in this DEIS, nor did the BLM inform the Tribe that any impact analyses would be conducted based on the plant list provided, nor were specifics provided to the Tribe on the type of information needed by the BLM for the impact analyses.	BLM requested the information in letters to the tribe dated April 2, 2008 and June 2, 2010. As stated in the April letter, "It has come to our attention that the Ely Shoshone Tribe may also maintain a list of sensitive species. In order to address the impacts that may occur to these species, the BLM is requesting a species list as well as location information. The location information does not need to be exact occurrence information; however, in order to adequately address the impacts we do need to have an understanding of the hydrographic basin(s) where these species are known to occur. Exact location information, if provided to the BLM, will not be disclosed. The EIS will provide general information about the species in order to allow the public to understand the potential impacts (the general habitat parameters and hydrographic basin where the species occur will be described)."
35899-82	Estimated impacts on vegetation resources do not describe the intensity of impacts. The BLM describes acreages, mileages, or other numbers, but does not describe intensity as required under NEPA regulations (40 CFR 1508.27). For example, BLM must consider and analyze the direct, indirect, and cumulative impacts for any BLM proposal and its alternatives (40 CFR 1508.25(c)). "To help decision- makers understand how a resource will be affected," the BLM must "focus the discussion of effects on the context, intensity, and duration of these effects" (BLM NEPA Handbook at 55). NEPA requires the consideration of both context and intensity, or the severity of an effect.	Instensity of impacts are for all project alternatives are discussed and disclosed in Section 3.5.2, Environmental Consequences, while cumulative impacts are addressed in Section 3.5.3. The intensity/severity of impacts to vegetation are discussed in terms of "loss" (short-term, long-term, or permanent) thoroughout these sections, as well as quantifying the extent and duration of potential impacts.
35899-83	The BLM failed to analyze impacts of how groundwater drawdown, decreased plant cover, and decreased evapotranspiration would impact precipitation patterns in areas down-gradient in airstreams. Because evapotranspiration and evaporation from wet playas impact down-gradient environment precipitation patterns, the BUM must analyze those impacts on down-gradient environments. The BLM's analyses are thus incomplete and insufficient for this DEIS.	No data exist indicating any significant change in climate or weather (including patterns and/or rates of precipitation) down-gradient of the proposed Project area. Potential impacts resulting from groundwater drawdown are discussed in each resource secti
35899-84	The Tribe was not represented in the Natural Resources Group and was not appropriately consulted on matters regarding wildlife resources. As such, the BLM failed to include significant information on wildlife resources that the Tribe may provide in any type of planning efforts on our Tribal aboriginal land,. The BLM incorrectly deemed wildlife information from the Tribe as not the best available scientific and commercial data available.	The BLM has consulted with the Ely Shoshone tribe in many ways. The Tribe was asked to provide information on natural resources, cultural resources, hydrology, tribal lifeways, etc.The tribe was also asked to provide any information at all that may assist in developing the EIS and the analysis under NEPA. These requests occurred during government-to-government consultation at tribal council meetings, informal visits to the Ely Shoshone natural resouce staff member, and during the development of the Ethnographic Assessment. The only wildlife information received from the Tribe was the information on culturally sensitive plants which appears in table 3.5-8 and animals and fish which is discussed at the end of sections 3.6..1.4 and 3.7.1.4. Since no other wildlife information was received, BLM has had no opportunity to evaluate such information for adequacy under the best available information standards. The above mentioned sections of the EIS have been updated with additional information received from the Tribe and various references brought to our attention.
35899-85	While the BLM identifies a few "Culturally Significant Wildlife Species", that list (e .g., Page 3.6- 28) is in no way a comprehensive list of wildlife species that are culturally important to the Tribe. The BLM did not fully and appropriately list and describe culturally significant wildlife species. A substantial body of literature is available on wildlife species significant to the Tribes for the region. Instead of conducting a more substantial review of that literature, the BLM provides only a very brief note about culturally significant species; thus leaving the public and other readers of this DEIS to assume that only the species listed are significant to the Tribes. That said, the information provided by the BLM here is inadequate and must be changed to accurately list and describe wildlife species that are culturally significant to the Tribes.	The FEIS has been revised to include a broader list of culturally significant wildlife species based on additional available sources.
35899-86	Under "Groundwater Pumping" effects starting on Page 3.6- 71, the BL\1 does not adequately describe the intensity of wildlife impacts. Rather, the BLM makes vague statements of impacts. The BLM must identify and describe impact intensity for wildlife .	Given the programmatic nature of the NEPA analysis for future groundwater pumping and the scale of the project, the EIS analysis provides valley by valley information on groundwater dependent habitats in order to address potential impacts to species. Appendix F3.6 includes a table for each alternative showing the percent of potential affected groundwater dependent habitats in the valleys where impacts could potentially occur. By providing the percent of the total available groundwater dependent habitat in the valley that has the potential to be impacted, the EIS discloses the potential valley by valley risks to habitats upon which the various species depend. The percent provides a metric of intensity within that valley and allows the reader to understand the relative effects in the valleys where potential pumping impacts may occur.
35899-87	Descriptions of cumulative impacts are vague or not stated at all. Moreover, intensity of cumulative impact is not described in the text.	Similar to project-specific pumping impacts described in the response to comment T-35899-86-282, cumulative pumping impacts also are shown by valley in tables in F3.6. The cumulative pumping tables distinguish between pumping impacts that are attributable to No Action pumping and those that are project driven.
35899-88	Overall, the BLM 's analysis of impacts on wildlife resources tends to be down played and their descriptions of impact intensity are either vague or not described at all. The impacts to wildlife species that are culturally significant to Tribes are largely absent from the BLM's analysis and the BLM failed to recognize a large list of culturally important wildlife species and analyze impacts on those species.	Impacts to species that are culturally significant to Tribes are described early in the section and additional information has been added at the end of the affected environment portion of the terrestrial wildlife section. Additional references have been added at the end of each species or taxonomic group discussion to indicate whether a particular species or taxa group is culturally significant to the Tribes.

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ID	Comment	Response
35899-89	Proposed mitigation measure on Page 3.6-31 i , insufficient. The BLM stated as a conclusion that "construction water use could adversely affect water resources for wildlife " . However, BLM suggested that only the Construction Water Supply Plan is need d for mitigation. Additional mitigation is needed for the impacts described and BUA should detail such appropriate mitigation measures that would be used if wildlife habitats are affected as previously described.	The construction water supply plan is needed to determine extent of potential impacts. Mitigation for any potential localized, short-term effects, if any, can be addressed in the plan and before the BLM issues a Notice to Proceed.
35899-90	At the top of Page 3.6-35, the BLM states that "Impacts ...would be reduced given the protections provided by the RMPs and the ACMs. While the BLM does list the ACM that apply here, the BLM fails to state any specific protections in the RMPs that would apply here. The BLM must state which protection measures in the RMPs would apply in this case. The same should be applied to all areas where the BLM provides a blanket statement of RMP protection measures will be applied.	The specific protections from the RMPs are listed in the FEIS. Please see the sentence preceeding the sentence referenced in the comment.
35899-91	On Page 3.6-35, the BLM states that the ROW-WL-1 mitigation measure would be "moderately to highly effective in mitigating for impacts to big game key habitats." However, the BLM states that restoration can range from 20-200 years for shrublands and woodland in big game ranges disturbed by ROW construction. It is unclear as to how a mitigation measure can be highly effective if the timeframe for that restoration is up to 200 years. The 20- 200 year timeframe would be more closely associated with natural successional change toward reaching climax vegetation communities. The BLM must define what is meant by low, moderate and high effectiveness in term of mitigation. Without specific criteria or definitions for effectiveness, the BL\1' s analysis of mitigation effectiveness is speculative. The BLM must address and change this in the DEIS for this particular ROW-WL-1 and those mitigation measures that follow.	Thank you for your comment. The mitigation effectiveness statements have been modified.
35899-92	The BLM briefly describes potential impacts to special status species and the potential mitigation measures. Again, the BLM relies on a vague statement of protection measures afforded in the RMP'. The BLM must state specifically which protection measures in the RMPs they refer to tor each species.	The FEIS includes the references to the RMP specific measures in the text discussions preceeding the conclusion statements.
35899-93	Mitigation recommendations for wildlife impacts often relies on surveys or monitoring. Surveys or monitoring is not mitigation and does not in and of itself mitigate impacts. Mitigation for wildlife impacts is largely insufficient in this DEIS.	Mitigation proposed by the BLM includes not only survey, but also avoidance measures. Applicant committed measures often include survey and monitoring in order to provide additional data upon which to evaluate potential for impacts and need for mitigation.
35899-94	The classification of springs that are biologically significant is flawed. On Page 3.7- 8, The BLM classified springs as "springs with aquatic biological resources". That classification of spring is flawed. The classification assumes other springs have no biological importance and it errs in terms of having no input from the Tribe. The Tribe was not involved in that decision-making process for these springs even though these springs throughout the project area are highly significant to the Tribe for religious and traditional purposes. The springs biological features are important for the Tribe no matter whether special status species occur or not.	Native American Tribes had the opportunity to provide information on the importance of springs including biological resources. The aquatic biological resource section used information that was provided in verbal and written comments. Section 3.7 does not assume that other springs without fish or special status species are not important. The section acknowledges that springs also support invertebrate and plant species.
35899-95	Moreover, the BLM 's classification of springs of aquatic biological resources results in a reduction in the number of springs that are considered in the DEIS; thus, the impacts described in the DEIS are only a fraction of real impacts. The BLM does not disclose this. The BLM is required to disclose all impacts, not just impact. that are subjectively decided. The BLM must identify what proportion or number of springs are not included in the impact analyses of Aquatic Biological Resources.	Information regarding aquatic species in springs was obtained from published and unpublished data, agency feedback as members of the Biology Work Group and review of the PDEIS. All available occurrence information was used in the EIS.
35899-96	The 10- foot drawdown contour is too course of a scale to appropriately assess impacts on the large number of springs and their aquatic biological resources. While the 10-toot drawdown contour may suffice for particular broad-scale impact analyses, it is insufficient to rely upon that same scale fix very fine- scale impact analyses. that are needed especially for spring resources. It is possible to conduct these analyses at the 1-foot level and the BLM should do so to appropriately assess impacts on springs, other water resources, and associated biological resources.	When considering the regional scale of the study area, the use of the 10-foot drawdown contour area is considered a reasonable and appropriate reference to identify water-dependent resources potentially adversely affected by groundwater pumping. Additional details on this part of the analysis are provided in Section 3.3.2.8 in Water Resources under the heading, Defining the Drawdown Area.
35899-97	The BLM fails to illustrate and describe the intensity of pumping effects on springs , streams and their associated biological resources. The BLM should not only map the 10- foot drawdown contours for full build out , full build out 75 years, and full build out + 200 year , but the BLM must include the predicted depths of drawdown for those build out time frames.	Maps showing the 10-foot drawdown contours were provided in Section 3.7 (Aquatic Biological Resources) for each alternative and the three model time frames.
35899-98	Fourth, the BLM failed to sufficiently describe the intensity of impacts on aquatic biological resources. Instead, the BLM simply identified the number of springs/ ponds/ lakes predicted to be impacted. This number is a gross underestimation of the total number of springs/ponds/lakes to be impacted given that these ecosystems are only a subset of the total spring/pond/ lake systems based on the BLM 's classification as to which springs/ponds/lakes contain special status species and/ or "important biological resources". The BLM identifies only a small subset of springs (6) where estimated percent flow reductions were calculated and displayed in the DEIS.	The aquatic biological resource impact analysis focused on streams and springs with game fish or special status species that were predicted to be at risk from groundwater pumping. The water resource impact analysis included all perennial streams and springs regardless of biological species that were predicted to be at risk from pumping.
35899-99	the BLM' s cumulative effects sections failed to describe the intensity of impacts on springs and streams and associated biological resources. Instead the BLM simply states numbers of miles of streams or numbers of springs that will be impacted based on predictions.	The impact discussion for cumulative impacts uses the same impact parameters as discussed for individual alternative impact analyses.

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ID	Comment	Response
35899-100	The BLM failed to adequately mitigate impacts on aquatic biological resources. The BLM relies at least partially on Stipulated Agreements that contain a monitoring program to mitigate impacts on springs and aquatic biological resources. Several serious flaws exist in the monitoring programs that are part of Stipulated Agreements. First, the Tribe was not party to or represented in the Stipulated Agreements. The BIA, a party to those agreements, acted without the Tribe's approval. The Tribe therefore provided no input on the monitoring plan and thereby the plan does not address appropriate thresholds for a large number of spring discharges that are important for tribal traditional use and important in sustaining appropriate levels of culturally important resources.	BLM does not rely solely on the DOI stipulation measures to mitigate impacts of proposed groundwater development. Monitoring, management, and mitigation commitments under the DOI stipulations were negotiated to resolve DOI agencies' protests of SNWA's water rights applications before the State Engineer and are incorporated into the proposed action as design features. In addition, in its independent role as federal land manager, throughout the EIS BLM considers potential conditions of approval on the right-of-way grant to mitigate impacts to federal environmental resource values. The 3M Plan has been revised to more comprehensively address these issues at this programmatic stage.
35899-101	The Stipulated Agreement monitoring program assumes that if SNWA reduces or ceases groundwater withdrawals, then water discharge will return in subject areas in very short order. The BLM does not provide any predictions of how long it will take for springs or other water dependent ecosystems to return to above threshold levels once groundwater pumping at a particular well or set of wells is reduced or stopped altogether. This is a major short-coming of the Stipulated Agreement's monitoring program and is based on flawed assumptions that will not translate into immediate return of water discharge to subject ecosystems to sustain biological resources.	Comment noted. See response MM-1 regarding proposed monitoring, management and mitigation for the project.
35899-102	The Stipulated Agreement's monitoring program is seriously flawed because it do s not address how pumping will impact down-gradient resources. If the monitoring data demonstrates that a threshold is reached and SNWA is therefore required to reduce or stop pumping, the groundwater cone of-depression will move down-gradient. The monitoring program does not address how that cone-of depression will affect down-gradient environments, but rather the program only addresses a particular spring or other ecosystem where monitoring data has been collected. Given the groundwater pumping project, cones-of-depression will occur in large number of areas and move down-gradient affecting resources that are not being monitored.	Please see standard resource responses MM-1 and MM-2 for information on this topic.
35899-103	Mitigation measures described under this section of the DEIS are insufficient to appropriately mitigate impacts. No matter which alternative is examined, there is a large number of springs/ ponds/ lakes and their associated biological resources that will be impacted. The BLM never addresses how or to what extent (intensity) the threshold levels in the monitoring program will impact aquatic biological resources. In fact, it is likely in some instances that threshold levels may irreversibly harm biological resources. Mitigation measures simply assume that all biological resources will bounce back once pumping is reduced or stopped. Additional mitigation measures must be implemented to prevent significant reductions in water resources of springs/ ponds/ lakes. And the Tribe must be consulted as to which springs/ ponds/ lakes will be monitored, as to what thresholds will be used, and as to which springs/ ponds/ lakes will be considered biologically important.	Given the programmatic nature of the NEPA review of future groundwater development in this EIS, the specific elements of future adaptive management plans, including appropriate mitigation measures, are not currently known. BLM anticipates that the effects of adaptive management processes or plans will be considered and evaluated as part of the alternatives analyzed in future site-specific NEPA review for groundwater development facility ROWs. This review will include a public process and tribal consultation.
35899-104	The BLM' s analysis of impacts on land uses is flawed in part because the BLM does not consider land uses for the entirety of the groundwater development project area. Instead, the BLM focuses its impact analyses on ROWs and groundwater development areas. In previous sections of this DEIS, the BLM illustrated that the pr dieted groundwater drawdown would extend well beyond the groundwater development areas. Therefore, the BLM must include an impact analysis of land uses for all areas that are predicted to experience groundwater drawdown at full buildout full buildout + 75 years, and full buildout +200 years as would be consistent with other resource impact analyses in previous sections of this DEIS.	A detailed analysis of the effects of groundwater pumping within the entire groundwater drawdown area is provided in Section 3.3. The analysis in Section 3.8.2.9 provides an analysis of specific areas, public lands available for disposal and private agricutlural lands, from the larger subset.
35899-105	The BLM also failed to include Tribal lands in the impact analysis for land use.	Thank you for your comment. As shown in Figure 3.8-1, there are no tribal lands directly affected by the ROWs or groundwater development areas.
35899-106	Under Table 3.14-14, the BLM identified that impacts on Swamp Cedars ACEC will range from 0- 3163 acres depending on the alternative and time frame of groundwater drawdown impacts. For Shoshone Ponds, the BLM estimates that 0-1021 acres would be impacted depending on the alternative and time frame of groundwater drawdown impact. These acreages are underestimations because the Tribe considers the ACECs to be much more expansive than the boundaries that the BLM has currently applied to these ACECs. Moreover, the Tribe is strictly opposed to any impact on these ACECs given their religious and other cultural significance to our Tribe and other regional Tribes.	As stated in the DEIS, no Class III inventories have been conducted as of this date; therefore, no quantitative analysis can be done at this time. Per the Programmatic Agreement (PA), Class III inventories would be conducted prior to project construction and with enough lead time to evaluate any located sites for NRHP eligibility; determine if any historic properties would be adversely affected by the proposed project; and, avoid, minimize, or mitigate adverse effects. Government-to-government consultation has been and will continue to be conducted between the BLM and the Tribes. The Tribes have been invited to be concurring parties to the PA.
35899-107	The BLM has predicated that 0-5 springs at Shoshsone Ponds ACEC are predicted to be impacted by groundwater pumping from SNWA. The Tribe is strictly opposed to any alteration of spring flows at this site or any other religious site. Moreover, the cumulative impacts for Shoshone Ponds indicates that 923-1023 acres of wetland meadow and phreatophytic vegetation would be impacted with project full build out by 200 years. The Tribe is opposed to such degradation of Tribally significant ' it s that are already extremely rare.	Please refer to standard resource response WR-4 for information on this topic.
35899-108	The BLM referenced mitigation measures in previous sections of the DEIS. The BLM should state specifically which mitigation measures would effectively mitigate impacts on our Tribal religious sites. There are no mitigation measures in this DEIS that would appropriately mitigate impacts on our Tribal religious sites, such as Swamp Cedars and Shoshone Ponds.	Thank you for expressing your concerns related to the Draft EIS. Your suggestions have been carefully considered by the BLM. Please also see the response to WR-4 regarding proposed mitgiation to Shoshone Ponds.

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ID	Comment	Response
35899-109	The BLM failed to adequately disclose and mitigate impacts of visual resource: important to the Tribe. The SNWA GWD Project would impact visual resources important to the Tribe and the Tribe's traditional and religious practices in several ways, including from the construction and operation of the pipeline and from groundwater drawdown in both short-term and long-term. Degradation of viewscapes near or within Tribal sacred sites or other areas of traditional and cultural uses also degrades our Tribal spirituality and ability to retain our cultural heritage.	The visual resources analysis in 3.15 evaluates the visual impacts from ROW Facilities, Groundwater Development and Groundwater Pumping; visual impacts to sensitive places of Tribal importance are further addressed in Section 3.17. Government-to-government consultation currently is ongoing and would continue up to and including project construction. The Tribes are encouraged to consult with the BLM regarding their concerns with visual impacts to resources important to them.
35899-110	The Tribe has not agreed to the PA and opposes the PA as it currently stands.	The Programmatic Agreement has been revised for the FEIS and has been executed by authorized parties. Please see appendix F3.16. Tribes have been invited to sign as a concurring party. Whether or not, your tribe has signed the agreement, you would continue to be involved in the on going process via government-to-government consultation.
35899-111	The BLM fails to describe the context and intensity of impacts on cultural resources. Instead, the BLM makes overly vague statements that project construction, operation, and groundwater drawdown may impact cultural resources. Appropriate mitigation measures cannot be evaluated without an understanding of which resources, historic sites, etc will be impacted. The BLM has not adequately consulted with the Tribe on cultural resource impacts and mitigation measures.	As stated in the DEIS, no Class III inventories have been conducted as of this date; therefore, no quantitative analysis can be done at this time. Per the Programmatic Agreement (PA), Class III inventories would be conducted prior to project construction and with enough lead time to evaluate any located sites for NRHP eligibility; determine if any historic properties would be adversely affected by the proposed project; and, avoid, minimize, or mitigate adverse effects. Government-to-government consultation has been and will continue to be conducted between the BLM and the Tribes. The Tribes have been invited to be concurring parties to the PA.
35899-112	The DEIS identifies that the number of historic properties that could be affected by the project is unknown. The DEIS provides no information on the numbers or types of culturally significant properties/ historic properties that may be impacted by the SNWA GWD Project. Moreover, the DEIS fails to address reasonably foreseeable future action impacts other than vandalism and looting. The DEIS also fails to provide mitigation; rather, the DEIS relies on the ·programmatic agreement that ha' not been approved by the Tribe, nor has the Tribe been a party to any such agreement.	No quantitative analysis of impacts to historic properties can be provided at this time. As stated in the DEIS, Class III inventories will be conducted for the proposed pipeline ROW and associated ancillary facilities to identify historic properties that may be located in proposed disturbance areas. If any historic properties are located, they will be avoided. If avoidance is not feasible, any adverse effects will be minimized or mitigated per the Programmatic Agreement (PA). Under NEPA, if a proposed project will not have adverse effects on historic properties, then the proposed project would not cumulatively add to past, present or RFFAs impacts. Since impacts to historic properties are unkown at this time, then the analysis cannot state verifiably whether there would be cumulative effects. This is stated in the DEIS. On the other hand, impacts associated with vandalism and illegal collecting are known to occur and most likely would continue to occur due to development; therefore, the analysis can make that connection. Government-to-government consultation between the BLM and tribal governments has been and will continue to be conducted for the proposed project. The consultation process provides the opportunity for the tribes to express their concerns about historic properties and sites of tribal concern, and to assist the BLM in developing the appropriate mitigation measures.
35899-113	The PA fails to appropriately lay out a framework for compliance with federal law, and in addition to the letter of the law, the intent/spirit of the law.	The PA was developed pursuant to 36 C.F.R. § 800.14; its procedures are consistent with the ACHP's section 106 regulations found at 36 C.F.R. Part 800, and is thus in compliance with applicable federal law.
35899-114	Section 106 and the implementing regulations do not require Tribes to enter the draft programmatic agreement with the BLM and SNWA. The federal agencies' trust responsibility and obligation to consult with affected Tribes exists independent of the PA. The federal trust responsibility, Executive Order 13175 (1 1/6/ 2000), and President Obama' s11/5/2009 Memorandum for Head of Executive Departments and Agencies require the BLM, BIA, and other federal agencies to consult with affected tribes and protect Tribal natural resources and cultural resources regardless of whether the tribes enter a programmatic agreement.	BLM recognizes that its consultation and trust obligations exist whether a tribe participates in the PA or not. In response to this comment, text was added to the PA. The PA requires BLM to continue consultation with tribes regarding cultural resources and historic properties, regardless of whether the tribe signed the PA. Other Stipulations in the PA also recognize and incorporate BLM's ongoing consultation responsibility, irrespective of whether a tribe signed the PA.
35899-115	The draft PA acknowledges that at this point the full effects of the proposed groundwater project "cannot be fully determined" (p.1) and contemplates "delegating" to the SNWA "major decision-making responsibilities. " (p.1). The BLM acknowledges that important tribal historic properties may be affected (p .2). However, the draft only suggests that the tribes "may" attach religious and cultural significance to affected project areas that "may" be affected. It is undisputed that Spring Valley is an area of critical cultural important to the tribes. This language fails to acknowledge that important resources and area· will certainly be affected by any construction of the proposed project. The numerous Tribal concerns regarding the proposed SNWA project are set forth in detail in the multiple protests filed by the Tribes with the Nevada State Engineer. Those protests are incorporated into these comments by this reference.	The BLM has made a reasonable and good faith effort to identify tribes that "may" attach religious and cultural significance to historic properties that "may" be affected by the Project. The first "may" recognizes that the agency took a broad approach to identifying tribes. The agency contacted and initiated consultation with tribes that may or may not attach cultural and religious significance to historic properties that may be affected, in order to be sure that the appropriate tribes were ultimately identified, and to help ensure that no tribes with consultation rights for this Project were left unidentified. With respect to the second "may," a determination of whether cultural resources or historic properties will be affected will be determined by the agency in the NEPA processes for this Project, as the agency determines the likelihood of effects. Furthermore, the PA includes an express preference for avoidance of impacts to historic properties. It is not the intent of this provision to assume there will be no affects, rather it accurately reflects that resources may in some instances be avoided and left unaffected or be fully mitigated.
35899-116	The PA purports to give affected Tribes an opportunity to consult with the BLM about affected properties, but the BLM has refused to disclose to the Tribes full cultural information known by the BLM without first placing conditions and restrictions on the Tribes ability to utilize this information in appropriate forums to protect these important tribal cultural resources. How can the tribes effectively consult with the BLN about affected tribal cultural resources and protect those resources when the BLM will not provide the Tribes information it possesses and allow the tribes to utilize the information in appropriate forums?	BLM is willing to disclose information to tribes. BLM is required by several statutes to keep certain information confidential and is required by the section 106 regulations to address concerns over confidentiality of information. ACHP's guidance suggests that "[i]ssues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties." ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. The data sharing agreements between the tribes and BLM are used to protect information from public disclosure. Some tribes have executed these agreements with BLM.

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ID	Comment	Response
35899-117	The PA does not allow for consultation "in a manner respectful of both tribal sovereignty and the unique government-to-government relationship between Indian tribes and the United States government." (p.2). The PA unwisely asks for the tribes to approve an ambiguous and unclear "process" for addressing facilities "identified but not yet designed, or whose location has yet to be determined, and those that may be added in the future." (p.3). How can the tribe understand and consult regarding the effect of the project on historic properties when the scope of the proposed facilities is not defined and the information known by the proponent and federal agencies is not shared fully with the affected tribes?	The PA does not specify the manner of consultation in the PA, as the manner of consultation may vary from tribal government to tribal government. BLM is obligated to consult with each tribe that attaches cultural or religious significance to an affected historic property and the PA acknowledges this consultation obligation. The EIS contains comprehensive information currently known about the project which is adequate for a decision on the infrastructure and facilities being considered at the current time. GEN-1 and GEN-2 contain information relevant to this comment.
35899-118	There should be a mechanism that provides for a full understanding of the proposed project effects on Tribal cultural resources traditional uses, and water resources BEFORE permitting, construction, and pumping occurs.	The NEPA process provides a mechanism for describing the proposed project and the types of impacts that could occur if the project were permitted. As part of the NEPA process, public scoping meetings were held to provide information on the project to the public, and to provide the opportunity for the public to comment on the project, ask questions about the project, and express concerns with the project. Also as part of the NEPA process, the DEIS was provided to the public for review and comment. Through the DEIS, the public can learn about the proposed project and about potential impacts to resources such as water and tribal traditional use areas. Public review of the DEIS also allows for public input to the document. In addition to the public scoping meetings and DEIS, government-to-government consultation between the BLM and tribal governments has been and will continue to be conducted to provide information on the proposed project and to identify resources of tribal concern that could be impacted by the proposed project. The information obtained through the NEPA process will assist the BLM in determining whether to permit the proposed project.
35899-119	At present, the impact of the proposed project on Tribal cultural and water resources is unknown without further study and analysis.	The BLM has made a reasonable and good faith effort to identify tribes that "may" attach religious and cultural significance to historic properties that "may" be affected by the Project. The first "may" recognizes that the agency took a broad approach to identifying tribes. The agency contacted and initiated consultation with tribes that may or may not attach cultural and religious significance to historic properties that may be affected, in order to be sure that the appropriate tribes were ultimately identified, and to help ensure that no tribes with consultation rights for this Project were left unidentified. With respect to the second "may," a determination of whether cultural resources or historic properties will be affected will be determined by the agency in the NEPA processes for this Project, as the agency determines the likelihood of effects. Furthermore, the PA includes an express preference for avoidance of impacts to historic properties. It is not the intent of this provision to assume there will be no affects, rather it accurately reflects that resources may in some instances be avoided and left unaffected or be fully mitigated.
35899-120	There should be a mechanism in the PA that provides for termination of construction and later any pumping if Tribal cultural or water resources are impacted.	An applicant-committed protection measure listed under Adaptive Management Measures would be an option for reducing or ceasing groundwater withdrawals. This measure would determine a reduction or cessation of pumping on a case-by-case basis for individual production wells or well fields using technical and consultation process identified in the stipulated agreements.
35899-121	State that any information known by the BLM, any federal agency, or the proponent regarding tribal natural or cultural resources that may be significant to a tribe will be fully disclosed to the tribe immediately, including information obtained in the past and the future. This should occur before the Tribes sign the amended agreement.	The PA states that BLM will submit copies of reports, recommendations of eligibility and effect, and treatment or data recovery plans to consulting Indian tribes as appropriate. This stipulation applies to both Tier 1 activities, and Future Tier activities, and thus provides for the sharing of information into the future.
35899-122	That no consultation may be said to occur without a resolution of the Tribal Council with participation of Tribal attorneys. The DEIS inaccurately cites informal meetings as government to government consultation.	Government-to-government consultation was initiated in 2007 and is ongoing. Tribal consultation is a process of communication that may include written correspondence, meetings, telephone conferences, site visits, and e-mails. ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 5 (Nov. 2008). The BLM has engaged in extensive government-to-government consultation and has documented that consultation in the administrative record. Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) ("The agency official shall consult with representatives designated or identified by the tribal government"); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior's December 1, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe. In its ongoing consultation with each tribe, BLM invited each tribe to identify who would consult on the tribe's behalf. Most tribes identified their tribal chair, but requested that attorneys and other council members be kept informed. BLM has complied with this request in the past and will continue to do so in the future.
35899-123	That the BLM and BIA will renegotiate the previously-entered stipulations regarding impacts to Tribal resources by the proposed SNWA groundwater project. This should include an appropriate appearance in the present proceeding before the Nevada State Engineer and termination of the stipulations.	The Stipulated Agreements were not designed to address historic properties or cultural resources as required by the NHPA. The PA serves that purpose. The PA governs the identification and evaluation of cultural resources and historic properties as required by the National Historic Preservation Act. The NSE hearing occurred in Fall-Winter of 2011 and did address the stipulated agreements which currently remain in place. A copy of this comment has been provided to the interagency executive committee which oversees the implementation of the stipulated agreements.

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ID	Comment	Response
35899-124	That the federal agencies will assist the Tribe (funding and staff participation) to quantify and obtain a legal recognition of the affected tribe's reserved water rights, prior to any construction of the proposed groundwater project. The federal agencies and proponent should assist the Tribes in construction of necessary infrastructure to develop and utilize their water right prior to any construction of the proposed project.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.
35899-125	That the federal agencies will withhold any approvals related to the proposed project until the tribes water rights are quantified and legally recognized.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.
35899-126	Tribal cultural resources personnel should have equal and full access and participation with federal agency staff, with full funding for their expenses and work.	ACHP's section 106 regulations do not provide a mandatory funding mechanism for tribal cultural resource personnel. BLM's policy regarding compensation to Native Americans for their participation in the BLM's administrative process is: The BLM does not compensate individuals or organizations including Native American individuals, Indian tribes, Indian communities, and Indian organizations for contributing information or comments as input into the BLM's administrative process designed to protect tribal interests. BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1.
35899-127	The federal agencies should not enter the agreement until the affected tribes approve the terms by Tribal Council resolution.	For the development of a PA, the BLM is required to consult with tribes. 36 C.F.R. § 800.14(f). The regulations do not provide for tribal approval of the terms of the PA. By regulation, the PA takes effect when the ACHP, the SHPO, and the agency(ies) execute the agreement. Id. § 800.14(b)(2)(iii).
35899-128	The affected tribe should participate in determining and documenting areas of potential effects (APE's).	By regulation, the agency in consultation with the SHPO determines and documents the APEs, 36 C.F.R. § 800.4(a)(1), while affected tribes are invited to participate in the identification and evaluation of historic properties, including properties of traditional religious and cultural importance, and in the resolution of adverse effects. Id. § 800.2(c)(2)(B)(ii). Identified Indian Tribes were invited to participate and have already identified various historic properties and cultural resources through the Ethnographic Assessment process, as reflected in the preamble to the PA, and through tribal consultation which is ongoing throughout the Project.
35899-129	Section D1.c should be changed. Federal law requires the BLM to consult with affected tribes regardless of whether the tribe enters the draft agreement.	BLM recognizes that its consultation and trust obligations exist whether a tribe participates in the PA or not. In response to this comment, text to that effect was added to the PA. Also, the PA requires BLM to continue consultation with tribes regarding cultural resources and historic properties, regardless of whether the tribe signed the PA. Other Stipulations in the PA also recognize and incorporate BLM's ongoing consultation responsibility, irrespective of whether a tribe signed the PA.
35899-130	The BLM should enter the data sharing agreements proposed by the Tribes, which require the BLM to share fully cultural information and allow the tribe to utilize the information as the tribe deems appropriate to protect tribal resources. See Section D.4.	The PA provides for the execution of data-sharing agreements. BLM may not allow that information to be freely used however because, by statute, the agency is obligated to protect sensitive information and other information about historic properties.
35899-131	Section D.1.e. Any contacts with the tribes by the proponent or federal agency regarding NHPA compliance should be copied to the Tribal Councils and Tribal attorneys assigned to this issue.	Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) ("The agency official shall consult with representatives designated or identified by the tribal government"); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior's December 2, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe. For this project, BLM requested that a consultation person be identified and most tribes identified the tribal chair. In addition, many tribes requested that additional people such as tribal attorneys, tribal staff and other council members, be kept informed. BLM has complied with and will continue to comply with this request. In its ongoing consultation with each tribe, BLM will renew its request for each tribe to identify who will consult on the tribe's behalf, and any tribe may specify its consultation person or persons.

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ID	Comment	Response
35899-132	Any discorvery of cultural resources should be communicated to the tribe and not just the BLM for determination of significance. See Section 1.2. Tribes should be able to evaluate for themselves the significance of the discovery. The time periods in Section 1 are too short.	Pursuant to the PA, BLM will consult with Indian Tribes, to the extent that law allows (i.e., the safeguarding of confidential information), any discovery of cultural resources. The PA provides for consultation and elevation opportunities for tribes when addressing significance of cultural resources. The comment period provided to the Identified Indian Tribes is consistent with the comment period for other consulting parties. The time periods in the PA are consistent with the time periods specified in the ACHP's section 106 regulations. See 36 C.F.R. § 800.13. BLM determined that the time periods for comments described in the PA provide a reasonable opportunity for consulting parties to participate, and the time limits are necessary to provide certainty for decisionmaking during the section 106 process governed by this PA. BLM will address, to the extent possible, any tribal comments received beyond the stated timeframe.
35899-133	The failure of a tribe to respond should not be interpreted as a concurrence to any action or activity. Section J.5.	The PA comment period provided to the Identified Indian Tribes is consistent with the comment period for other consulting parties. The time periods in Stipulation I are consistent with the time periods specified in the ACHP's section 106 regulations. See 36 C.F.R. § 800.13. BLM determined that the time periods for comments described in the PA provide a reasonable opportunity for consulting parties to participate, and the time limits are necessary to provide certainty for decisionmaking during the section 106 process governed by this PA. BLM will address, to the extent possible, any tribal comments received beyond the stated timeframe.
35899-134	Consulting tribes should participate fully in monitoring. Section L. Funding for all monitoring activities (staff and legal expenses) should be provided by the proponent.	Tribal monitoring is addressed in the PA. The PA provides for tribal monitoring of construction activities at historic properties to which a tribe attaches religious or cultural significance in the APEs for direct effects. Pursuant to the PA, the project proponent is responsible for funding any required monitoring.
35899-135	Information on location and nature of all cultural resources should be made fully available to tribes. See section N.7.	BLM is willing to disclose information to tribes. BLM is required by several statutes to keep certain information confidential and is required by the section 106 regulations to address concerns over confidentiality of information. ACHP's guidance suggests that "[i]ssues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties." ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. The data sharing agreements that BLM provides to the tribes are used to protect information from public disclosure.
35899-136	Dispute resolution provisions should provide for a neutral decision-maker with binding authority. The agreement should also include provisions that tribal participation or signing does not waive tribal sovereign immunity in any way.	The PA provides several dispute resolution provisions and provides for neutral decision makers with binding authority. First, disputes raised by signing parties may be resolved by consultation between BLM, SNWA, the objecting party, and the other Signatories to the PA ("local consultation"). If that local consultation is unsuccessful, the State Director of Nevada BLM has authority to make a final determination regarding any objection that cannot be resolved by local consultation, except for disagreements on National Register eligibility, findings of effect, or treatment. For disputes raised by non-signing parties, including Identified Indian Tribes, regarding determinations of National Register eligibility, the objector can request the ACHP to request the Keeper of the National Register to determine the eligibility of the property. Issues regarding findings of effect and resolution of adverse effects may be raised directly to the ACHP. The State Director, Keeper of the National Register, and the ACHP are thus three arbiters for dispute resolution. Text has been added to the PA to address the sovereignty issue raised in this comment.
35899-137	A tribe should be able to terminate participation by written notice and without prejudice or waiver of any rights or obligation of the federal agencies.	Termination of a tribe's participation in the PA does not waive the rights and obligation of the federal agencies, because consultation and trust obligations exist regardless of whether a tribe executes the PA. In response to this comment, text was added to the PA recognizing this principle, and additional terms have been added to provide for tribes terminating their participation in the PA by written notice to BLM.
35899-138	Termination of a tribe's participation in any agreement will not impact or limit the federal agencies' consultation obligations or trust responsibility in any manner.	BLM recognizes that its consultation and trust obligations exist whether a tribe participates in the PA or not. In response to this comment, text to that effect was added to the PA. The PA requires BLM to continue consultation with tribes regarding cultural resources and historic properties, regardless of whether the tribe signed the PA. Other Stipulations also recognize and incorporate BLM's ongoing consultation responsibility, irrespective of whether a tribe signed the PA.
35899-139	Why is the PA as it currently stands insufficient to protect cultural resources? Tribal cultural resources cannot be adequately protected where the impacts of the proposed project are unknown, where SNWA denies a significant hydro-graphic connection between the affected basins and important sources for tribal water resources, and where the Tribes have not real power to limit pumping activity the negatively impacts Tribal cultural resources.	The BLM has been and will continue to consult with the tribes regarding cultural resources and places of tribal concern, including water resources. The consultation process provides an opportunity for the tribes to express their concerns, to identify cultural resources and places of tribal concern, and to assist the BLM in developing measures to avoid, minimize, or mitigate effects of the proposed project. The tribes have been invited to participate in development of the PA as concurring parties. Per the PA, Class III inventories would be conducted to identify historic properties and places of tribal concern that could be negatively afftected by the proposed project.

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ID	Comment	Response
35899-140	Government-to-government consultation has not properly occurred. Informal meetings with the Council or informational meetings on the proposed GWD project should not be counted as government to government consultation. For example, Tribal representatives were told that the meetings in Ely with the BLM regarding the proposed project were specifically not going to be considered consultation. The BLM should consult with at least a quorum of the Tribal Council during formal session with Tribal attorneys and appropriate Tribal staff present. The Tribes should have advance notice that the proposed project is considered a government to government consultation.	Government-to-government consultation was initiated in 2007 and is ongoing. Tribal consultation is a process of communication that may include written correspondence, meetings, telephone conferences, site visits, and e-mails. ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 5 (Nov. 2008). The BLM has engaged in extensive government-to-government consultation and has documented that consultation in the administrative record. Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) ("The agency official shall consult with representatives designated or identified by the tribal government"); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior's December 1, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe. In its ongoing consultation with each tribe, BLM invited each tribe to identify who will consult on the tribe's behalf for this project. Most tribes identified its tribal chair.
35899-141	The BLM's Figure 3.17-1 shows the landscape area that was assessed for Native American traditional values. This spatial area of analysis does not incorporate large and important areas that will be adversely impacted by groundwater drawdown. Thus, the BLM's delineation of area of analysis in Figure 3.17-1 only a fraction of the total area that must be evaluated for Native American values, especially when predicated groundwater drawdown areas are not encompassed within Figure 3.17-1. As a result of the BLM's misrepresentation of the appropriate area to analyze for Native American traditional values, any impact assessment on those values is in error. BLM's analysis here must be corrected by providing ;analysis for all areas that may be impacted by the SNWA project (ROWs and groundwater development areas and areas predicted to have groundwater drawdown over 200+ years).	Tribal consultation is ongoing and will occur in conjunction with the construction of the main pipeline and the development of groundwater well facilities during future tiers of the Project. To ensure proper coverage of areas of tribal importance that may be affected by the proposed GWD Project, the BLM requested that the analysis area extend beyond the proposed pipeline ROW and encompass the five hydrographic basins and a 10-mile-wide corridor centered on the proposed pipeline routes where the routes extend outside of the hydrographic basins (see Section 3.17.1).
35899-142	The BLM identified that an ethnographic assessment was produced "to identify tribal places of cultural and spiritual importance and traditional practices that may be affected by the proposed Project." The Tribe examined the draft Ethnographic Assessment prepared for this SNWA DEIS, but the Tribe never approved the final Ethnographic Assessment because of its incompleteness and failure to address a number of important issues and sites. Therefore, any reliance on the Ethnographic Assessment in this SNWA DEIS is a failure to adequately disclose impacts and adequately consult with the Tribe.	Government-to-government consultation between the BLM and the Tribes has been and will continue to be conducted for the proposed project. As part of the consultation efforts, the BLM conducted sites visits, interviews, and meetings with tribal members and tribal governments regarding the proposed project and the identification of tribal concerns. Also, the Tribes have been invited to participate in development of the Programmatic Agreement as concurring parties. These consultation efforts are identified and listed in the DEIS.
35899-143	The DEIS fails to account for the significance of the affected region to the Tribe and insufficiently evaluates impacts to tribal use of the region. The DEIS fails to consider important information sources regarding tribal use and history of the region. The DEIS relies on the Ethnographic Assessment, but the Tribe was not approved of the contents of that document. The DEIs and Ethnographic Assessment fail to effectively claim that large portions of the affected region, especially areas where groundwater drawdown is predicted to be greatest, are areas most critical to the Tribe in terms of cultural resources, religious sites, and traditional values that are key for our Tribal legacy and survival.	The Ethnographic Assessment is one among several tools used by the agency to identify and record properties of traditional religious and cultural importance to the tribes in the Project area. The BLM selected person's meeting the Secretary of the Interior's standards for ethnographers to conduct the Ethnographic Assessment. The Ethnographic Assessment is not the only source of data for the EIS. Tribal consultation, communication, and coordination also was used. The Class I files search also identified areas and sites. The ongoing Tribal consultation for the Project may identify additional sites and areas of traditional religious and cultural importance to the tribes.
35899-144	The BLM also failed to adequately mitigate impacts on Native American traditional values. The DEIS Native American traditional values section is replete with examples of inadequate mitigation. For example, mitigation ROW-NAM-1 as providing Tribal monitors is not appropriate mitigation for impacts that are likely to be sustained from project construction and facility maintenance. While the Tribe does not oppose Tribal Monitors per se, the Tribe does oppose the fact inadequate mitigation for the destruction of tribal values or displacement of tribal values and resources. The BLM must provide proper and sufficient mitigation for the impacts on Native American values.	Government-to-government consultation between the BLM and the Tribes has been and will continue to be conducted for the proposed project and to identify tribal concerns. In addition, the Tribes have been invited to participate in development of the Programmatic Agreement as concurring parties. Through the consultation efforts and development of the PA, the Tribes have the opportunity to identify appropriate mitigation measures.
35899-145	The BLM also failed to provide any mitigation for impacts on Native American values from groundwater pumping, and from construction and operation of the project. The BLM indicated that mitigation measures would be developed based on tribal consultation established in the PA." The Tribe is not a party to the PA, nor has the Tribe approved the PA in any way. The BLM must provide mitigation measures here and cannot assume Tribal participation in the PA as a mitigation measure.	BLM recognizes that its consultation and trust obligations exist whether a tribe participates in the PA or not. In response to this comment, text to that effect was added to the PA. The PA requires BLM to continue consultation with tribes regarding cultural resources and historic properties, regardless of whether the tribe signed the PA. Other Stipulations also recognize and incorporate BLM's ongoing consultation responsibility, irrespective of whether a tribe signed the PA. Section 3.16 and 3.20 describe how the conditions in the PA obligate both BLM and the proponent in mitigating effects to Native American values. These values would also be the subject of ongoing consultation as the project proceeds.
35899-146	The BLM admits that there is likely to be widespread impacts on water resources, especially for water resources that are not monitored as part of the Adaptive Management Plan and Measures. Further, the BLM states that mitigation for such impacts will be "none." The BLM must provide mitigation to water resources impacted by groundwater drawdown not only to a small subset of water resources, but to the entirety water resources within drawdown areas. This SNWA DEIS failed to adequately mitigate these Native American traditional values.	The monitoring and mitigation for this project is complex and extensive. The BLM is looking at two separate processes for the development of the monitoring and mitigation plans for this project. Currently there are stipulated agreements that have been developed through the Nevada State Water Engineer that BLM is a member. BLM also manages surface and mineral resources for federal lands it administers under FLPMA and therefore BLM has developed a project-wide 3M plan to protect federal resources that may be impacted by construction, operation, maintenance and abandonment of the project related facilities, see changes to section 3.20. This section outlines the process that BLM now and in the future will follow for mitigation for this project. Mitigation related to groundwater development will be included in subsequent NEPA and associated valley-specific 3M Plans as described in section 3.20.

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ID	Comment	Response
35899-147	The BLM failed to adequately consult with the Tribe in a government-to-government consultation as is required under NHPA. The BLM incorrectly used update meetings regarding the SNWA GWD Project as government-to-government consultation. The Tribe made clear at these meetings that such updates of the SNWA project could not be used to claim consultation with the tribe. However, the BLM dismissed Tribal requests and used those meetings to incorrectly claim consultation (see Table F3.17-1 in SNWA DEIS).	Government-to-government consultation was initiated in 2007 and is ongoing. Tribal consultation is a process of communication that may include written correspondence, meetings, telephone conferences, site visits, and e-mails. ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 5 (Nov. 2008). The BLM has engaged in extensive government-to-government consultation and has documented that consultation in the administrative record. Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) ("The agency official shall consult with representatives designated or identified by the tribal government"); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior's December 1, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe. In its ongoing consultation with each tribe, BLM invited each tribe to identify who will consult on the tribe's behalf for this project. Most tribes identified its tribal chair. Table F3.17 has been updated to include all forms of communications between tribes and BLM.
Newe Sogobia (Western Shoshone) - (PA)		
34494-1	The Spanish Trail was found and overlays the native pathway used prehistorically and historically by the Western Shoshone people to access the sea. No analysis of the impact to native pathways has been conducted.	An ethnographic assessment was conducted for the proposed GWD Project. During the course of the ethnographic assessment, tribal members were asked to identify places of traditional religious and cultural importance to the tribes. At that time, trail systems were identified by the tribes, but none of the trails were physically located within the proposed ROW. Government-to-government consultation between the BLM and federally-recognized tribes is currently ongoing and will continue up to and including project construction. The tribes have been and will continue to have opportunities to express their concerns about the project to the BLM, to identify any places or properties of tribal importance, and to participate in development of the draft Programmatic Agreement.
34494-2	The failure of the DEIS to not use a culturally appropriate context is a violation of Executive Order 12898 Environmental Justice. A culturally appropriate context for identifying impacts to Western Shoshone interests and concerns is not used and therefore, Native American concerns in the DEIS are insufficient.	Apart from the requirements of the NHPA relating to historic properties, cultural resources are governed by several statues, regulations, executive orders, and other authorities. Cultural resource authorities include the American Indian Religious Freedom Act of 1978 (AIRFA), 42 U.S.C. 1996; the National Historic Preservation Act of 1966 (NHPA), 160 U.S.C. 470; the Archaeological Resources Protection Act of 1979 (ARPA), 16 U.S.C. 470aa; the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), 25 U.S.C. 3001; Executive Order 13007 regarding sacred sites (May 24, 1996); Presidential Memorandum of April 29, 1994 regarding government-to-government consultation; and Secretarial Order No. 3215 (April 28, 2000) regarding trust assets. BLM's analysis of the proposed main pipeline project has included the identification of cultural resources subject to these authorities. While the NHPA is discussed in detail in this description of regulatory framework, Chapter 3.17 summarizes other cultural resources authorities in further detail and is incorporated here by reference." The Programmatic Agreement was developed under the provisions of the National Historic Preservation Act, and its implementing regulations, as provided in Appendix F3.16.
34494-3	The Programmatic Agreement for Historic Preservation and Protection of and Cultural Properties is not lawful or valid within Newe Sogobia and is a violation of Western Shoshone custom.	The Programmatic Agreement was developed under the provisions of the National Historic Preservation Act, and its implementing regulations, as provided in Appendix F3.16.
34494-4	The use of a programmatic agreement by the US and the State of Nevada to address any interest within the boundaries of the Treaty of Ruby Valley is a violation of the US Constitution Article 1, Supremacy Clause, the Nevada Territorial Act and the Treaty of Ruby Valley.	The Programmatic Agreement was developed under the provisions of the National Historic Preservation Act, and its implementing regulations, as provided in Appendix F3.16.
Paiute Indian Tribe of Utah Economic Development Dept		
34235-1	It is clear that mitigation proposed in the DEIS is weak, unenforceable, and will not prevent the complete dewatering of the targeted region.	Please review section 3.20 in the FEIS for a detail discussion of the proposed mitigation and BLM enforcement of the mitigation. Please also see standard resource responses MM-1 and MM-2 for more information.
34235-2	The BLM cannot permit the right-of-way for the pipeline because it would violate the laws governing public lands.	Chapter 1 contains a thorough explanation of BLM's legal mandates and responsibilities.
34235-3	The DEIS predicts dire environmental damage from the SNWA pumping but contains only a weak analysis of the equally dire social and economic impacts on eastern Nevada and western Utah from the Proposed Action and the five pumping scenarios.	Thank you for your comment. The primary purpose of this EIS is to disclose potential project impacts related to the right-of-way, access roads and ancillary facilities. The proposed pipeline routes, as submitted by the applicant, have been analyzed in this EIS and the impacts associated with the proposed alignment have been presented therein. Impacts related to well locations, pumping, and groundwater drawdown, which are the underlying concern expressed in this comment, are analyzed on a programmatic level in Section 3.18 and would be analyzed in further detail in future NEPA. Uncertainty and the lengthy time frame associated with drawdown is a key factor affecting the assessment of potential socioeconomic effects. See Gen-1 and Gen-2 for more information on tiering. Text has added to Section 3.18.2.8 describing the long-term drawdown, including reference to Figures 3.3.2.-7 and 3.3.2-8.
34235-4	The DEIS contains many flaws and inadequacies that must be addressed before any fully informed Record of Decision can be reached. Among the faults is a failure to disclose and independently analyze the full economic cost of the project, a failure to disclose and analyze the cost of proposed mitigation and monitoring,	See also SocEcon-1, SocEcon-3 and SocEcon-6 regarding the inclusion of project cost information in the FEIS and lack of authority or need for the BLM to independently analyze project costs in conjunction with the ROW application.

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34235-5	and a failure to include real alternatives to the pumping project – alternatives that the public demanded during scoping. Alternatives such as efficiency and conservation of existing water resources in S. Nevada, outright purchase of water rights currently used for agriculture in S. Nevada and elsewhere on the Colorado River, and desalination options might well satisfy the water requirements without causing the extensive damage that will certainly occur under implementation of the proposed project.	Updated chapter 2 provides a detailed discussion of the alternatives and the BLM reasons for consideration or dismissal. Please see standard resource response for more information on this topic.
34235-6	Likewise, the DEIS fails to identify the real “purpose and need” which is clearly to increase water availability for S. Nevada saying instead that it's the BLM's “need” to issue a right-of-way.	Based on your comment and others, the purpose and need statement has been revised. As stated in SNWA's 2009 Water Resource Plan (see Appendix A), the applicant's two-fold project need is to meet future projected water demands, and to diversify available water resources to protect the community from drought and shortage.
Representing Goshute Tribal Council		
37015-1	Suspend this environmental review process until SNWA's water rights applications conclude;	Updated chapter 1, section 1.4 provides a detailed discussion of the current status of the water rights process.
37015-2	Engage in formal Tribal consultation with the Goshute Tribe on a government-to-government basis regarding the Tribe's cultural and water resources, including its federally reserved water rights	Government-to-government consultation was initiated in 2007 and is ongoing. Tribal consultation is a process of communication that may include written correspondence, meetings, telephone conferences, site visits, and e-mails. ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 5 (Nov. 2008). The BLM has engaged in extensive government-to-government consultation and has documented that consultation in the administrative record. As part of ongoing government-to-government consultation, tribes will receive updates on these issues and other technical information throughout the life of the project. Tribes will also be involved, as they wish, through the mitigation process as described in section 3.20.
37015-3	Revise the Draft Programmatic Agreement to ensure that the Tribe's cultural resources, including human remains and sacred sites, are adequately protected in accordance with both the letter and spirit of federal and Tribal laws	The PA addresses the curation of cultural resources and human remains in accordance with the Native American Graves Protection and Repatriation Act (“NAGPRA”) and its implementing regulations. In response to this comment, the PA now allows for the development and execution of a NAGPRA Plan of Action (“POA”) and BLM will invite the Tribe to consult to develop a POA in order to address the Tribe’s concerns regarding the protection of these resources. With respect to sacred sites, some sacred sites were identified in the Ethnographic Assessment for this Project. Access and adverse effects to those sites have been considered by the agency. Furthermore, BLM has requested additional consultation with the tribes to discuss sacred sites, as defined in Executive Order 13007, in order to consider any additional sacred sites and access to those sites about which any tribes are willing to consult.
37015-4	Supplement and recirculate the DEIS once further information is available regarding the amounts of water SNWA will be authorized to pump, including locations of wells and associated infrastructure	Well locations, associated infrastructure, and exact volumes of water to be pumped will be analyzed and addressed in future NEPA.
37015-5	There are also fatal flaws with the timing of this requested review. It is absolute folly to review Right-of-Way (ROW) applications for a pipeline without knowing the approximate locations of the wells that it will be supplying. The pipelines will follow the water, not the other way around. This makes it impossible to perform any informed, reasoned decision-making at this time, as required by law.	Please see standard resource response Gen-1 for a discussion on NEPA tiering.
37015-6	Without further formal Tribal consultation and supplementation of the DEIS, Tribal cultural and water resources, including federally reserved water rights, will remain unlawfully ignored.	Tribal consultation to identify and evaluate cultural resources and historic properties is an ongoing process, to occur during each tier of the Project. Although, government-to-government consultation as defined by the NHPA does not include natural and water resources, BLM has included the tribes in the 3M process outlined in section 3.20. Federally reserved water rights are addressed in section 3.3.1.7.
37015-7	Because the federal government violated both NEPA and NHPA, it follows that it violated its minimum fiduciary duty to the Tribe). The Treaty of Peace and Friendship entered into by the United States federal government and the Goshute Shoshone Indians in 1863 predates NEPA and other environmental laws. The enactment of federal environmental laws certainly "does not diminish the Department's original trust responsibility to Indian tribes or cause it to disappear."	The FEIS has been prepared and completed in compliance with both NHPA and NEPA. BLM strives to find ways to comply with all public land laws and mandates concerning the lands and resources under its management authority.
37015-8	The BLM's failure to adequately evaluate and mitigate impacts to Tribal cultural resources, including impacts to water resources, reserved water rights, culturally significant plants and animals, traditional and cultural practices, and religion, is therefore unlawful. Simply put, the BLM has not acted in accordance with its fiduciary relationship to the Tribe as required by federal law. This failure has grave consequences for the future of the Tribe and requires, at minimum, supplementation and recirculation of the DEIS in conjunction with formal Tribal consultation.	Impacts to cultural resources, water resources, plants, animals, and Native American traditional values are discussed in sections 3.16, 3.3, 3.5, 3.6, 3.7, and 3.17 of the DEIS. Mitigation measures for all resources are discussed in sections 2.3, 2.4, and 2.5. The BLM acknowledged that in addition to adjudicated federal reserved water rights identified in the DEIS, unadjudicated federal reserved water rights in the hydrologic study area exist, but further determined that they were of an “unknown nature...regarding both locations and quantities of water” which limits “the ability to further describe water use of this type in the hydrologic study area.” See DEIS at 3.3-65. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of tribal federal reserved water rights. Congress specifically mandated by statute that a right-of-way be granted by the BLM for the GWD Project. The tribal water rights have not been asserted by the BIA, and, absent a McCarran Act adjudication, the BIA cannot be forced to assert such rights and have them adjudicated by a court. The cost of adjudicating all of the federal reserved tribal water rights would cause significant delay or non-fulfillment of the Congressional mandate that a right-of-way be granted for the GWP.

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ID	Comment	Response
37015-9	The BLM failed to fulfill its enhanced legal obligation to consult with, and take into consideration the views of, the Goshute Tribe and other Indian tribes that would be affected by this Project.	Government-to-government consultation was initiated in 2007 and is ongoing. Tribal consultation is a process of communication that may include written correspondence, meetings, telephone conferences, site visits, and e-mails. ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 5 (Nov. 2008). The BLM has engaged in extensive government-to-government consultation and has documented that consultation in the administrative record.
37015-10	Contrary to the DEIS's assertions, meaningful Tribal consultation has not properly occurred. Informal meetings and informational conferences simply do not constitute formal government-to-government consultation. In one instance, Tribes were informed that a meeting in Ely with the BLM specifically would not be considered consultation, yet the DEIS counts it as such.	Government-to-government consultation was initiated in 2007 and is ongoing. Tribal consultation is a process of communication that may include written correspondence, meetings, telephone conferences, site visits, and e-mails. ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 5 (Nov. 2008). The BLM has engaged in extensive government-to-government consultation and has documented that consultation in the administrative record. Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) ("The agency official shall consult with representatives designated or identified by the tribal government"); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior's December 1, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe. In its ongoing consultation with each tribe, BLM invited each tribe to identify who will consult on the tribe's behalf for this project. Most tribes identified its tribal chair.
37015-11	Formal government-to government consultation must occur with the Goshute Tribal government during a formal Tribal Council session that includes, at the Tribe's discretion, its Tribal attorneys and appropriate Tribal staff. In order for "government-to-government" consultation to occur, consultation must be held with a quorum of the Tribal Council as the Tribe's governing body (or its duly authorized delegate). Furthermore, the Tribe must have advance notice that a proposed meeting is considered government-to-government consultation.	Please refer to the response to comment #10.
37015-12	In order to adequately supplement the DEIS so that it comports with federal law, BLM must engage in ongoing, meaningful government-to-government consultation with the Tribal government regarding Tribal cultural and water resources, including its federally reserved water rights. The BLM's failure to consult with the Tribe in a manner that is respectful of Tribal sovereignty resulted in the unlawful absence of any reasonable consideration, evaluation, and mitigation of impacts to Tribal resources and Tribal culture, including religious and ceremonial practices, in the DEIS. Should the Project move forward, BLM must consult with the Tribe on an ongoing, formal basis in order to fulfill its enhanced legal obligations under federal law.	Formal government-to-government consultation has occurred and is also ongoing to identify and evaluate cultural resources and historic properties and to identify sacred sites, as defined in Executive Order 13007, and address access to sacred sites. The definition of cultural resources used by the commenter is "...any place, object, burial, plant, animal, fish, water source, natural resource, or landscape determined by the Tribe to be culturally, traditionally, historically or religiously significant in accordance with Tribal law, custom, or tradition". Although, government-to-government consultation as defined by the NHPA does not include natural and water resources, BLM has included the tribes in the 3M process outlined in section 3.20. Federally reserved water rights are addressed in the FEIS in section 3.3.1.7.
37015-13	from the Tribe's perspective, the DEIS's failure to adequately identify, assess and mitigate impacts to the Tribe's cultural resources is a serious, and offensive, shortcoming.	As stated in the DEIS, Class III inventories have not been conducted at this time, but would be conducted for the proposed project prior to any project construction. Therefore, no quantitative analysis could be provided in the DEIS. The BLM continues to consult with Native American tribes to identify cultural resources and places of tribal concern that could be affected by the proposed project.
37015-14	No files search has been conducted for the locations of future facilities, such as associated well development. DEIS at 3.16-8. Presumably, the pipeline infrastructure will follow the water, and not the other way around, making it impossible to evaluate whether the location of the pipeline will remain within the one mile corridor surveyed via file inventory here. Moreover, only 11 percent of the study area has been previously surveyed for cultural resources, making the results of this file survey extremely limited.	The DEIS acknowledges that a very small percentage of the proposed pipeline ROW has not been surveyed and, therefore, the files search data is limited. The DEIS also states that a Class III inventory would be conducted along the entire proposed pipeline ROW and for any associated facilities prior to project construction and with enough lead time to evaluate located sites for the NRHP, determine adverse effects, and avoid, minimize, or mitigate such effects. The proposed pipeline ROW is as shown in the DEIS.
37015-15	As they currently stand, the DEIS and PA do not sufficiently comply with either the letter or the spirit of the law. BLM should require that Tribally approved Tribal representatives and Native American monitors participate in future Class III surveys and be present during all ground disturbance activities in both the DEIS and the P A. Furthermore, BLM should require that the Goshute Tribe be formally consulted as the locations of pipelines, powerlines, wells, and associated infrastructure are further defined to determine whether cultural resources will likely be affected.	Per the PA, an Indian Tribe that attaches religious and cultural significance to a historic property, including an eligible TCP, that may be adversely affected by the proposed project will be invited to monitor that construction. Government-to-government consultation between the BLM and Tribal governments, including the Goshute, has been and will continue to be conducted for the proposed project. The consultation process provides an opportunity for the Tribes to comment on the project, express their concerns, ask questions, identify places of tribal importance, and provide input.
37015-16	performing an environmental review at this stage is premature. Without the benefit of knowing where well field development may be proposed, we cannot know the location of the pipeline or its associated infrastructure. Without knowing the location of the pipeline, the Tribe cannot know whether, and to what extent, cultural resources will be impacted.	The purpose of this EIS is to analyze impacts related to the right-of-way, access roads and ancillary facilities. Impacts related to well locations, pumping, and groundwater drawdown are analyzed on a programmatic level and will be analyzed in greater detail in future NEPA; please see Standard Resource Response Gen-2.
37015-17	This review should be suspended until SNWA's water rights applications are approved. At that time, SNWA should formally supplement this DEIS with information regarding proposed well field locations.	The purpose of this EIS is to determine the impacts related to known right-of-way areas. Groundwater development facilities and pumping effects are currently only being analyzed from a programmatic perspective. Future NEPA analysis will be conducted to perform a more detailed analysis once well locations, water rights, and pumping volumes have been determined.

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ID	Comment	Response
37015-18	Once water rights are adjudicated, and scientifically based locations of pipelines and associated infrastructure, including wells, are further defined, the BLM should formally consult with the Goshute Tribe, and other Indian tribes, to determine whether or not cultural resources would be affected. This consultation would be in addition to any archeological survey that would be required, as archeologists are not qualified to address traditional Goshute values. Only the Goshute Tribe can do this. The Goshute Tribe must also be allowed to participate in the Class III survey; archaeological survey; and evaluation of cultural resources, including archaeological resources and culturally or religiously significant locations, on their own terms. If SNW A obtains the right to extract groundwater, BLM must develop a culturally appropriate mechanism for reaching these decisions with the Tribe. For example, a Memorandum of Understanding (MOU) between the Goshute Tribe and BLM regarding the identification, evaluation, and mitigation of cultural resources should be executed.	Tribal consultation to identify and evaluate cultural resources and historic properties is an ongoing process, to occur during each tier of the Project. Tribal monitoring is addressed in the PA. The PA provides for tribal monitoring of construction activities at historic properties to which a tribe attaches religious or cultural significance in the APEs for direct effects. Pursuant to the PA, the project proponent is responsible for funding any required monitoring. Tribal participation in the Class III survey is beyond the scope of tribal consultation as defined by the ACHP's section 106 regulations. See 36 C.F.R. § 800.2(c)(2)(ii)(A). The PA provides for consultation with the Tribe to evaluate properties. The PA provides for consultation between the Tribe and BLM to identify historic properties and to develop options for treatment (or mitigation) of possible adverse effects.
37015-19	Once the locations of wells and their associated pipelines are further defined, the Tribe must be consulted to determine whether the Tribe should participate in all of the Class III survey, or only those portions of the survey where the Tribe detennines cultural resources are most likely to occur. This detennination must be made by the Tribe.	Tribal consultation to identify and evaluate cultural resources and historic properties is an ongoing process, to occur during each tier of the Project. Tribal participation in the Class III survey is beyond the scope of tribal consultation as defined by the ACHP's section 106 regulations. See 36 C.F.R. § 800.2(c)(2)(ii)(A). The PA provides for consultation between the Tribe and BLM to identify historic properties and to develop options for treatment (or mitigation) of possible adverse effects.
37015-20	The Tribe must be allowed to: 1) participate in the Class III inventory to the extent that the Tribe detennines is appropriate; 2) participate in the identification and evaluation of cultural resources, including archaeological resources, to the extent the Tribe detennines would be appropriate (this may include onsite monitoring); 3) detennine whether cultural resources, including archaeological resources, are culturally or historically significant to the Tribe; 4) detennine, in collaboration with BLM, NRHP eligibility; 5) assess potentially significant effects to cultural resources to detennine what type of mitigation measures would be culturally appropriate; and, 6) be empowered in the P A to provide its expertise in the identification, evaluation, and mitigation of cultural resources in a meaningful way.	Tribal consultation to identify and evaluate cultural resources and historic properties is an ongoing process, to occur during each tier of the Project. Tribal participation in the Class III survey is beyond the scope of tribal consultation as defined by the ACHP's section 106 regulations. See 36 C.F.R. § 800.2(c)(2)(ii)(A). The PA provides for consultation between the Tribe and BLM to identify historic properties and to develop options for treatment (or mitigation) of possible adverse effects.
37015-21	BLM must also commit to sharing all information regarding Tribal natural or cultural resources immediately with the Tribe so that the Tribe can evaluate potentially significant impacts. BLM should also ensure that funding is provided to the Tribe so that it may provide its expertise if this Project moves forward. (For example, funding for Tribal cultural monitors should be required as a mitigation measure). A dispute resolution mechanism must also be included in the P A that places any disputes between the BLM and Tribe before a neutral, third-party for resolution. In sum, substantial revisions must be made to the Ethnographic Assessment, P A and DEIS in order to adequately consider and protect Tribal cultural resources in a manner that is respectful of Tribal sovereignty.	BLM is willing to disclose information to tribes. BLM is required by several statutes to keep certain information confidential and is required by the section 106 regulations to address concerns over confidentiality of information. ACHP's guidance suggests that "[i]ssues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties." ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. The confidentiality agreements that BLM provides to the tribes before sharing information are used to protect information from public disclosure. The PA provides for tribal monitoring of construction activities at historic properties to which a tribe attaches religious or cultural significance in the APEs for direct effects. Pursuant to the PA, the project proponent is responsible for funding any required monitoring. The PA provides several dispute resolution provisions and provides for neutral decision makers with binding authority. First, disputes raised by signing parties may be resolved by consultation between BLM, SNWA, the objecting party, and the other Signatories to the PA ("local consultation"). If that local consultation is unsuccessful, the State Director of Nevada BLM has authority to make a final determination regarding any objection that cannot be resolved by local consultation, except for disagreements on National Register eligibility, findings of effect, or treatment. For disputes raised by non-signing parties, including Identified Indian Tribes, regarding determinations of National Register eligibility, the objector can request the ACHP to request the Keeper of the National Register to determine the eligibility of the property. Issues regarding findings of effect and resolution of adverse effects may be raised directly to the ACHP. The State Director, Keeper of the National Register, and the ACHP are thus three arbiters for dispute resolution.
37015-22	BLM must engage in meaningful consultation with the Tribe once the locations of wellfields and associated infrastructure are further defined to appropriately consider this project's impacts to Tribal religious and ceremonial practices in accordance with federal law.	Government-to-government consultation has occurred and is also ongoing to identify and evaluate cultural resources and historic properties and to identify sacred sites, as defined in Executive Order 13007, and address access to sacred sites. Government-to-government consultation will continue throughout the implementation of the project.
37015-23	Additionally, BLM must execute a confidentiality agreement with the Tribe regarding Goshute religious, ceremonial, and traditional practice to ensure that the locations of sacred sites are not inappropriately disclosed to the public.	BLM is willing to disclose information to tribes. BLM is required by several statutes to keep certain information confidential and is required by the section 106 regulations to address concerns over confidentiality of information. ACHP's guidance suggests that "[i]ssues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties." ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. The data sharing agreements that BLM provides to the tribes are used to protect information from public disclosure.
37015-24	Because the DEIS fails to adequately consider and mitigate impacts to the Tribe's water resources, it must be supplemented in order to comply with the law.	Please refer to section 3.3.2 for an in-depth discussion of impacts to water resources.

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ID	Comment	Response
37015-25	the DEIS completely fails to consider impacts to the Tribe's reserved water rights. In Winters v. United States, the United States Supreme Court held that the establishment of a Reservation for Indian purposes implied the creation of a federal reserved water right sufficient to fulfill the Government's purposes in establishing the Reservation. See Winters v. United States, 207 U.S. 564, 576-77 (1908). The right to water has a priority date which is based upon the date of creation ofthe Tribe's Reservation. Here, the Goshute Tribe has a priority date oftime immemorial, or, no later than 1863 (when the Treaty of 1863 was executed between the United States and the Goshute Shoshone Indians). See 1863 Treaty of Peace and Friendship. At the very latest, the Tribe has a priority water date of 1912 or 1914 pursuant to subsequent Executive Orders creating the Tribe's Reservation.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.
37015-26	The fact that the Goshute Tribe's reserved water rights have yet to be judicially determined in no ways affects the legality or enforecability of the right. Reserved water rights are vested, presently existing rights, regardless of whether they have or have not been adjudicated. SNW A therefore has a duty to refrain from diverting water or taking other actions which may interfere with the exercise of the Tribe's reserved water rights.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.
37015-27	the DEIS's failure to evaluate potentially significant impacts to tribally reserved water rights is unlawful.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.
37015-28	Without an unpolluted water source capable of supporting not only the Tribe but all the plants and animals that survive within the Goshute cultural landscape, the Tribe and its traditions may cease to exist. For these reasons, the DEIS must be supplemented to more adequately address water resources, including adverse impacts to the Tribe's reserved water rights.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.
37015-29	This DEIS completely fails to consider the interdependent relationship between a right of way application for pipelines and the development of wells and associated infrastructures. It further fails to consider the interdependent relationship between the amount of water that SNWA will be authorized to pump from this ROW application.	The purpose of this EIS is to analyze impacts related to the right-of-way, access roads and ancillary facilities. Impacts related to well locations, pumping, and groundwater drawdown are analyzed on a programmatic level and will be analyzed in greater detail in future NEPA; see Standard Resource Response Gen-2.
37015-30	Only once SNWA has obtained the right to extract groundwater and evaluated where well field development will likely occur should this environmental review process be reinstated. At that point, BLM and SNWA must consult with the Tribe regarding SNWA's proposed wellfield locations and the likelihood that cultural resources and water resources will be impacted, including which mitigation measures would be culturally appropriate.	The purpose of this EIS is to analyze impacts related to the right-of-way, access roads and ancillary facilities. Impacts related to well locations, pumping, and groundwater drawdown are analyzed on a programmatic level and will be analyzed in greater detail in future NEPA; see Standard Resource Response Gen-2. Further tribal consultation will occur prior to these actions.
37015-31	With the limited information currently available regarding SNWA's pending water rights applications, and the intended location of wells to supply this pipeline, it is simply not possible to take the required "hard look" at this time. This vast oversight makes it impossible to provide a "reasonably thorough" discussion of environmental impacts or an analysis of proposed mitigation measures.	The purpose of this EIS is to determine the impacts related to known right-of-way areas. Groundwater development facilities and pumping effects are currently only being analyzed from a programmatic perspective. Future NEPA analysis will be conducted to perform a more detailed analysis once well locations, water rights, and pumping volumes have been determined.
37015-32	The DEIS fails to consider the Coyote Springs Valley withdrawals and facilities, resulting in potential segmentation of the project	Current groundwater withdrawals and surface water use in Coyote Spring Valley are analyzed under the No Action Alternative as existing water uses that are expected to continue regardless of the proposed GWD Project. Current groundwater withdrawals in Coyote Spring Valley are also included in the model simulations for the cumulative impacts analysis. Impacts of facilities construction in Coyote Spring Valley are considered in the cumulative impact analysis. Groundwater development projects in Coyote Spring Valley, including SNWA's Coyote Spring pipeline project, have independent utility and are not part of the GWD Project or connected actions.

Comments and Responses - Tribal Government

ID	Comment	Response
37015-33	-The DEIS should consider additional alternative that complies with its Resource Management Plans -The No Action alternative assumes that too many existing rights will be developed in the future	Updated chapter 2, section 2.3.1 contains a discussion on compliance with BLM RMP management direction and best management practicies. The no action alternative has been carefully reviewed with the cooperating agencies and others to ensure it correctly describes existing rights.
37015-34	The DEIS Impact Assessment includes a number of structural flaws: -Failure to consider project impacts as additive to the existing baseline -Failure to conduct a "hard look" evaluation of Project impacts	Updated chapter 3, section 3.0.4 provides a detailed discussion on the cumulative impacts assessment process. The FEIS is being completed following CEQ guidelines and DOI/BLM policy.
37015-35	The DEIS 's Use of arbitrary analytical models and methods that result in a failure to accurately and meaningfully evaluate Project impacts o The DEIS groundwater model is inappropriate and understates impacts • Arbitrary and inappropriate use of a l 0-foot drawdown criteria for impact analyses • DEIS groundwater model considers impacts for only 200 years, when they will actually continue to worsen indefinitely (over 10,000 years) • DEIS groundwater model underestimates the project's likely groundwater drawdown • The DEIS fails to address loss of aquifer capacity due to compaction o The DEIS uses an inappropriate database for the biological resource assessment	Please refer to standard resource responses WR-1 and WR-2 for information on this topic.
37015-36	It omits detailed assessment of the project's effects on groundwater quality	See response WR-7 regarding effects to water quality.
37015-37	It omits assessment of the health risk effects of project construction or operation	Dust effects have been considered as part of the air quality analysis in terms of compliance with air qualty standards.
37015-38	It fails to adequately address fisheries impacts	Please review updated section 3.7 (aquatic resources) for a detailed discussion of the project impacts on fisheries.
37015-39	The air quality assessment is substantively flawed	Please review section 3.1 which has been revised and expanded for a discussion of the air quality and related impacts.
37015-40	It omits analysis of combined effects of the project and climate change	FEIS has been expanded to include additional climate change information. Each resource section in chapter 3 now includes climate change information. Please also see standard resource response Air-15, Air-17 and Air-22.
37015-41	The DEIS fails to investigate and correctly address mitigation o The DEIS inappropriately defers mitigation to future studies and tiered documents o The DEIS fails to identify reduced groundwater pumping as an effective mitigation for certain project effects	The DEIS provides discussions of applicant-committed measures and additional mitigation in each environmental resource section. BLM provides a role for the tribe as part of the mitigation and monitoring process described in section 3.20. Please see standard resource response Gen-1 for further information.
37015-42	The DEIS fails to adequately address growth inducement o The Project would remove a major obstacle to long-term growth in Las Vegas area, thereby inducing growth o Approval of the Project pipeline would induce development of the well fields and groundwater pumping infrastructure	Thank you for your comment. The subsection entitled "Relationship of the GWD Project to Potential Growth Inducing Effects" in Section 3.18.2.9 addresses the role of water in enabling but not causing or inducing economic development. Approval of the ROW for the main pipeline and related facilities will not predispose later consideration of the wellfield development and related future facilities. As explained in Section 1.3.3., BLM will address future site-specific components in subsequent tiered NEPA documents. Finally, the effects of future facilities are addressing programmatically in this EIS and would be the subject of future NEPA (see Gen-1, Gen-2 and sections 2.5 and 3.10 of the Executive Summary).
37015-43	The DEIS fails to adequately address Project's conformance with applicable BLM Resource Management Plans o The DEIS impermissibly defers any assessment of conformance of the effects of groundwater withdrawal with applicable RMPs to future NEPA analyses o The DEIS analyses show that the Project cannot comply with many of the Ely RMP's goals, policies, and actions, yet this is not acknowledged in the EIS	Both the BLM Ely and Southern Nevada District RMPs have been reviewed and the BLM has determined that no plan amendments are needed at this time to proceed with SNWA's request for a ROW grant. This initial tier of programmatic analysis related to future facilities and potential groundwater drawdown will set the stage for subsequent analysis in future tiers. Future NEPA will determine the applicability of the RMPs in effect at that time.
37015-44	The DEIS discussion as to why the underlying water supply Project is needed is out of date and no longer valid	Additional text has been added to Chapter 1 to address this comment.
37015-45	The BLM's consideration of the pipeline ROW approval prior to adjudication of water rights and separately from wellfield approval is "backwards" planning.	Please refer to standard resource response Gen-2 for information on this topic.
37015-46	In addition, even as analyzed in the DEIS, the Project as currently construed (including all of the DEIS alternatives) cannot be approved because there is no evidence or finding that it would conform with the BLM's Resources Management Plans. In fact, the DEIS presents substantial evidence to the contrary.	Both the BLM Ely and Southern Nevada District RMPs have been reviewed and the BLM has determined that no plan amendments are needed at this time to proceed with SNWA's request for a ROW grant. This initial tier of programmatic analysis related to future facilities and potential groundwater drawdown will set the stage for subsequent analysis in future tiers. Future NEPA will determine the applicability of the RMPs in effect at that time.
37015-47	The Coyote Spring Valley action may be connected, and thus it and its environmental consequences must be included within the scope of this EIS, if it depends on the GWD project for its justification. 40 CFR 1508.25(a)(1)(iii). There is no information in this DEIS as to the justification for the Coyote Spring Valley project, and thus the reader cannot know whether it depends on the GWD project for its justification and whether these are connected actions.	Current groundwater withdrawals and surface water use in Coyote Spring Valley are analyzed under the no action alternative as existing water uses that are expected to continue regardless of the proposed GWD project. Current groundwater withdrawals in Coyote Spring Valley are also included in the model simulations for the cumulative impacts analysis. Impacts of facilities construction in Coyote Spring Valley are considered in the cumulative impact analysis. Groundwater development projects in Coyote Spring Valley, including SNWA's Coyote Spring pipeline project, have independent utility and are not part of the GWD project or connected actions.

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ID	Comment	Response
37015-48	The Coyote Spring Valley action may be cumulative, and thus it and its environmental consequences must be included within the scope of this EIS, if its environmental consequences may be cumulative with those of the GWD project. 40 CFR 1508.25(a)(2). There is no information in this DEIS for the location or the environmental consequences of the Coyote Spring Valley project. The reader cannot know whether its consequences are incremental with those of the GWD project and thus whether these are cumulative actions.	The Coyote Spring Development has been included in the reasonably foreseeeable projects, and its cumulative effects described.
37015-49	The Coyote Spring Valley action may be similar to the GWD Project, and thus it and its environmental consequences must be included within the scope of this EIS, if it has common timing or geography with the GWD project. 40 CFR 1508.25(a)(2). There is no information in this DEIS for the location or timing of the Coyote Spring Valley project, and thus the reader cannot know whether "the best way to assess adequately the combined impacts of similar actions ... is to treat them in a single impact statement."	Please note response to your Comment #47.
37015-50	At a minimum, in response to this comment, the BLM must make findings as to whether Coyote Spring Valley actions are connected, cumulative, or similar. If they are, the DEIS may have to be revised so the readers have a reasonable opportunity to comment on this information. The BLM should revise the DEIS to correct the project piecemealing deficiencies.	The Coyote Springs Development has been included in the reasonably foreseeeable projects, and its cumulative effects desribed.
37015-51	BLM did not identify their method for deriving alternatives in this DEIS, which is an error of noncompliance. All of the alternatives identified in the DEIS would result in very large-scale damage to the environment.	The BLM identified alternatives (see sections 2.1 and 2.2) that utilized the Congressionally-mandated LCCRDA corridor south of the White Pine County line and presented a range to encompass analyses related to pumping volumes, pumping locations and concentration of pumping activities, valleys where pumping could occur, and alternative pumping scenarios. BLM Best Management Practices, Applicant-committed Measures, Stipulated Agreements signed by the Department of Interior Bureaus, and additional mitigation and monitoring presented both in the FEIS and in additional plans drafted by the BLM will help to protect the environment from large-scale damage to the extent possible.
37015-52	All of the pumping alternatives would result in serious and ongoing (well over 200 years) adverse impacts to the environment. The only pumping option that would not result in those effects would be an alternative that reduces groundwater pumping so that long-term groundwater drawdown does not occur. This DEIS fails to either identify or assess such an alternative. Instead, the EIS presents a range of alternatives that, for the most part, amount to rearranging the deck chairs on the Titanic. All of the alternatives rely on groundwater mining, that is, withdrawal in excess of recharge. It is that mining of groundwater that causes all of the effects listed above. Under the EIS' alternatives, there would be some variation in the impacts associated with different levels, rates, and distribution of withdrawal points of groundwater mining, however the widespread impacts of that mining would continue to worsen into the endless future. (Tom Meyers' comments on this EIS indicate that, under the proposed Project, groundwater equilibrium does not occur for over 10,000 years. 1) Therefore the EIS alternatives should be expanded to include at least one alternative that reflects a perennial sustained yield, and does not result in long-tenn aquifer drawdown.	Please refer to standard resource response Gen-5 for information on this topic.
37015-53	The No Action alternative assumes that too many existing rights will be developed in the future. For example, No Action includes the future development of water for a power plant in Steptoe Valley, SNWA developing the 8000 af/y it has on the ranches it owns in Spring Valley, and the water rights to be transferred from Lake Valley to Coyote Springs (DEIS, chapter 2, Figure 2.2- 1). The impacts caused by these projects may not occur; if SNWA is not granted water rights in Spring Valley, it may not develop the other rights it has purchased. The BLM should develop a No Action alternative that includes only existing pumping. The other options should be considered reasonably foreseeable future actions.	Please refer to standard resource response Gen-10 for information on this topic.
37015-54	The impacts of the action alternatives should be determined without pumping the No Action alternatives simultaneously. This would remove the potential nonlinearities that could skew the estimates of the with-project impacts. Predicted impact would be estimated with certainty that they are not potentially due to existing pumping.	Section 3.3.2.8 provides a detailed discussion of the methodology, assumptions and limitations for the impact analysis related to groundwater development and pumping. Please see standard resource response Gen-10 for more information on this topic.
37015-55	The DEIS ignores too many applications that should be considered a reasonably foreseeable future action. Applications listed as APP, RFA, or RFP in 11 basins total almost 488,000 af/y (see Table below). BLM did not adequately justify its decision regarding which to consider as reasonably foreseeable. The BLM should include more of the potential future uses, especially since some are owned by credible entities including SNWA, Vidler, and Lincoln County.	Additional detail has been added to the cumulative analysis discussion. regarding criteria for projects to be considered in the RFFA analysis
37015-56	The DEIS ignores the effects that developing existing surface water rights may have on groundwater. Surface water rights affect groundwater rights in two ways. First, groundwater pumping lowers the water table that may induce recharge from perennial streams; if those streams have been diverted there will be no induced recharge. Second, surface water rights to runoff may divert water that naturally would become recharge further downstream, at the intersection with alluvial fans for example, and reduce the perennial yield of a basin.	Comment noted. The CCRP groundwater flow model simulates the effects of existing water rights on a regional scale. More detailed modeling would be required to provide a more site specific analysis of the effects associated with existing surface water rights.
37015-57	A fundamental flaw in this DEIS, which requires that it be revised and circulated for comment before proceeding to a final EIS, is that it apparently never adds one increment of environmental impact to other relevant increments. The "cumulative impacts analysis" in this DEIS is flawed and must be revised.	No Action, reasonably foreseeable actions, and the proposed actions were added togther, by alternative, to estimate resource effects from groundwater drawdown. The surface impacts of forseeeable projects were added to project surface impacts to estimate effects on resources.

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ID	Comment	Response
37015-58	Without the missing information identified above, the reader cannot possibly understand the cumulative effect on air quality. The regulatory cap for air pollutants is given in Appendix F3.1 in terms of concentration (micrograms per cubic meter), while the adverse consequence is given in terms of rate per day and per year - apples and oranges - and thus the reader cannot see for themselves whether air pollution standards will be met.	Please refer to standard resource responses Air-7 and Air 21 for information on this topic.
37015-59	The EIS states that the project would emit considerable tons per year of particulate matter (Box I), but the reader does not learn what this means in terms of the size of the "cumulative impacts." Inexplicably, the DEIS then concludes these emissions are "negligible": "The cumulative impacts to air quality due to ROW and groundwater development construction and maintenance and known past and present actions and RFF As are anticipated to be negligible. Current air quality conditions, as presented in Section 3 .l.l.l, are not expected to change appreciably." Page 3.1-60. "Negligible" is not the standard, where the Federal standards are written in terms of micrograms per cubic meter annual average but the project emissions are expressed in terms of tons per year. The reader does not learn whether the project will meet Federal standards.	Please refer to standard resource response Air-21 for information on this topic.
37015-60	The DEIS makes no apparent effort to investigate the possibility of further mitigation not already included in the proposed action.	Thank you for your comment. Please see Standard Resource Response MM-1.
37015-61	The EIS states that there will be tailpipe emissions into the atmosphere, in terms of metric tons per year, but the reader does not learn whether there are other sources of these same emissions, whether these emissions can be avoided, or whether these emissions will, in fact, conform to applicable air quality standards.	Please refer to standard resource response Air-21 for information on this topic.
37015-62	The EIS states that here will be air pollution from groundwater development and facility maintenance (Box I). How much this might accumulate with air pollution from other aspects of the project and from other projects is not disclosed (Boxes 2 and 3). How much this might be avoided with mitigation not included in the proposed action (Box 4) is not disclosed. Whether this will conform to applicable air pollution standards (top 2 boxes) is not disclosed.	Thank you for your comment. Please see Standard Resource Response MM-1.
37015-63	All the reader leans in the "cumulative impacts" section, page 3.1-60, is that visibility could be impaired. This is inadequate. The question was whether the Clean Air Act standards would foreseeably be met, and the question is not answered in this DEIS.	Please see common responses Air-5 and Air-10.
37015-64	The reader learns that the GWD project will introduce hundreds of thousands of metric tons of greenhouse gases into the atmosphere, "cumulatively." What this incremental addition to the atmosphere means in terms of climate change - the very title of this section - is not stated. The DEIS spends several pages of encyclopedic narrative on what a warming climate may mean to the desert Southwest (pages 3.1- 50-55), but the DEIS does not inform the reader as to the consequences of this increment on climate change in the desert Southwest. The reader may have independent knowledge that there are no regulatory caps on greenhouse gases in Nevada, but the DEIS does not state that fact. Thus, the relevance of these pages of information to the decision maker is not transparent. One way this information could have been put to use would be to conduct an investigation into mitigation not included in the proposed action. But there is no indication that this investigation was done, and thus there is no evidence on this issue of climate change for compliance with NEPA l02(2)(C)(ii). This DEIS should be revised to provide the missing information.	Please refer to standard resource response Air-19 for information on this topic.
37015-65	The DEIS fails similarly to adequately identify impacts of paleontological resources. While paleontological resources are present in the impact area, and may in fact be impacted, this DEIS does not inform the reader as to whether as to the size of the potential for cumulative impacts (Box 3) or whether these adverse impacts can be avoided. There are BMPs in the Ely RMP (page 3.2-16, "protection measures . . . Would be implemented"), and these BMPs are baked into the proposed action, but this DEIS does not inform the reader of the size or magnitude of the fossil resources that are not protected and in fact may be lost. Moreover, the loss of paleontological resources is divided into sections, with no grand total: (I) from construction and maintenance (pages 3.2-14 through 3.2-17(; (2) from groundwater development and pumping (pages 3.2-21 through 3.2-40); and (3) from groundwater pumping (pages 3.2-40 through 3.2-42, though "not expected to have effects").	Often paleontological resources are discovered through ground disturbing activities. The proposed protection measures would be implemented to preserve or document the occurence of scientifically important fossils if such are discovered. It is not possible to predict the amount of resource that may be impacted. Due to very nature of well pumping, groundwater pumping is not expected to have effects on fossil resources, only ground disturbing activities during right-of-way or well construction and development activities would impact fossil resources.
37015-66	The DEIS fails similarly to adequately identify impacts of water resources. This portion of the DEIS is concerned with impacts to "water resources" from the right-of-way portion of the project. Effects include ground disturbance and stream crossings. Stream crossings could result in sedimentation, among other unspecified effects. What the reader does not see is the increment of these impacts added to other past and present impacts or an investigation into whether there might be an increment added by future actions. If the proposed action will add sediment to streams, the DEIS does not say how much or whether this complies with whatever water standards may be in place, or whether any of this sedimentation can be avoided. The analysis of right-of-way effects on surface water is inadequate.	Most of the valley that would be affected by the ROW construction related activities have very limited surface water resources. Potential cumulative effects to water resources from all activities are summarized in Section 3.3.3 of the EIS.

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ID	Comment	Response
37015-67	The third bullet on page 3.3-87 defines the "cumulative pumping scenarios" as no-action, plus reasonably foreseeable future actions, plus the proposed action. This definition of "cumulative impacts" equates "no action" with the affected environment. This method of cumulative impacts analysis does not account for optional mitigation and thus does not create an administrative record of compliance with NEPA § 1 02(2)(C)(ii).	The Council on Environmental Quality (CEQ) NEPA regulations define cumulative impacts in Section 1508.7: “The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individual minor but collectively significant actions taking place over a period of time.” The water resources analysis provided in the EIS evaluated both the incremental and cumulative effects to water resources associated with the groundwater pumping scenarios included in the Proposed Action and alternative to the Proposed Action using the methodology described in Section 3.3.2.8. The cumulative pumping scenarios used for the model simulations of these alternatives were developed specifically to comply with the requirements of CEQ regulation 1508.7 and include the combined effects of the incremental impacts of the action added to other past, present, and reasonably foreseeable future actions.
37015-68	A second problem with this method is that it does not inform the reader of the "increment" caused by the proposed action, and the increments caused by other contributing sources. By lumping together most sources of cumulative impact into one section, the reader cannot readily discern in this DEIS one contributing cause from another, which deprives the reader of valuable information when trying to understand the comparative consequences of taking action and not taking action.	The Council on Environmental Quality (CEQ) NEPA regulations define cumulative impacts in Section 1508.7: “The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individual minor but collectively significant actions taking place over a period of time.” The water resources analysis provided in the EIS evaluated both the incremental and cumulative effects to water resources associated with the groundwater pumping scenarios included in the Proposed Action and alternative to the Proposed Action using the methodology described in Section 3.3.2.8. The cumulative pumping scenarios used for the model simulations of these alternatives were developed specifically to comply with the requirements of CEQ regulation 1508.7 and include the combined effects of the incremental impacts of the action added to other past, present, and reasonably foreseeable future actions.
37015-69	This DEIS simply does not inform the reader how and when an appropriate investigation into cultural resources will take place such that adverse impacts, and appropriate mitigation measures, can be sufficiently analyzed. The DEIS fails to identify the expected incidence of encountering a cultural resource, based on past projects in this area, or the likelihood of an adverse impact on cultural resources, if they are discovered.	Because this is a Programmatic EIS, the exact number and type of impacts are unknown at this time. As stated in the DEIS, approximately 11 percent of the project area has been previously inventoried, so a projection of how many sites would be encountered is highly speculative. Per the PA, a Class III inventory would be conducted prior to project construction and with enough lead time to evaluate the sites for NRHP eligibility and determine effects. If an NRHP-eligible site were to be affected, the effects would be mitigated in accordance with the PA and federal regulations.
37015-70	The DEIS additionally inappropriately defers evaluation and mitigation of cultural resources to a Draft Programmatic Agreement to which the Tribe objects.	The DEIS provides discussions of applicant-committed measures and additional mitigation in each environmental resource section. BLM provides a role for the tribe as part of the mitigation and monitoring process described in section 3.20.
37015-71	The DEIS does not disclose, because the BLM does not know, how many sites important to Native Americans will be adversely affected by the proposed action or by alternative actions. This analysis is inappropriately deferred to an indefinite time in the future. This DEIS discloses that future actions "have the potential" to cause damage or loss of these sites (Box 3) but there is no assessment of the extent or magnitude of these effects. It isn't just a numbers exercise of how many places or locations. It is a question of the cumulative impact of the proposed action, along with other present, past, and future actions, on the "cultural practices or beliefs of a living community" (page 3.17-3). This DEIS has no assessment of this question at all.	As a result of the ethnographic assessment and consultation efforts, many places of traditional religious and cultural importance to the tribes were identified within the ethnographic assessment study area. Due to the sensitive and confidential nature of these places, information about them was not disclosed in the EIS. Because this is a Programmatic EIS, the exact types and amount of impacts are not known at this time. Government-to-government consultation between the BLM and federally-recognized tribes currently is ongoing and would continue up to and including project construction. If any properties of traditional religious and cultural importance are identified and evaluated as eligible for the NRHP, impacts would be determined through the consultation efforts and, if necessary, the appropriate measures would be developed to mitigate effects in accordance with the PA and federal regulations.
37015-72	there is no discussion of why the 76 identified locations of cultural and religious importance to Native Americans were limited to only 8 sites recommended for listing on the National Register, nor is there any discussion about how disputes between Tribes and BLM regarding significance will be resolved. Simply put, there is not enough information here to satisfy NEPA's or the NHPA's requirements.	Due to the confidential nature of tribal properties of traditional religious and cultural importance, the text on the 76 identified locations was kept brief. The text found in "Assessment of Places of Tribal Importance" in Section 3.17.1.2, details the process by which properties of traditional religious and cultural importance will be identified and evaluated for significance, and also how this process will be accomplished through the appropriate means under the federal regulations.
37015-73	The DEIS consistently uses an arbitrary 10-foot groundwater drawdown as the minimum drawdown considered in its impact assessments. As described below, this has led to the EIS analyses missing or understating important potential impacts. This constitutes an impermissible gap in the analysis (per 40 CFR 1502.22 "incomplete or unavailable information") This applies to direct impacts to hydrologic features such as springs and streams, as well as indirect impacts to air quality, aquatic biota, terrestrial biota, vegetation, grazing, land use, special designations/wilderness areas, and socioeconomics.	The selection of the 10-foot contour was not arbitrary but rather based on the regional nature of the model and model uncertainty as explained in response WR-1 regarding the use of the model simulated 10-foot drawdown for the programmatic analysis of potential effects to water dependant resources.
37015-74	"BLM makes several excuses for limiting the analysis to the 1 0-foot draw down. First, the "BLM does not believe that it is reasonable or appropriate to use the regional model to quantify changes in groundwater elevation" (Id.) because of the model's regional scale and "unavoidable uncertainty associated with the model predictions" (Id.). They could have developed a more detailed model for the targeted valleys, such as Myers (20lla and 2011 b). Even so, understanding that predictions are uncertain is much better than just ignoring the impacts. Considering the uncertainty, the drawdown in Tippet or Deep Creek Valley could easily be double that predicted.	See response WR-1 regarding the development of the regional groundwater flow model and use of the model simulated 10-foot drawdown for the programmatic analysis of potential effects to water resources. Impacts to water resources in Tippets and Deep Creek Valley are not anticipated.

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ID	Comment	Response
37015-75	If the model has been objectively constructed, each contour line represents an expected value for that contour value. In the absence of obvious model bias, model error should be normally distributed (Hill et al 1998). There is just as much chance that the contour is underestimated as overestimated. All predictions should be treated as though there is a confidence band around them. If the BLM has concerns about the uncertainty, they should require the modeler to put confidence bands around the contour estimates.	Please refer to standard resource response WR-1 for information on this topic.
37015-76	the BLM is concerned that I 0 feet is similar to the magnitude of natural variation. Seasonal variation in water levels at any point may exceed the predicted drawdown, but a constant drawdown would cause a new median level around which the natural changes would fluctuate. Where seasonal variability causes springs or wetlands to dry, the additional drawdown may cause them to be dry longer. There are many springs in Tippet or Deep Creek Valley, which could be affected by a few feet of drawdown. The DEIS fails to disclose the impacts to those resources that have a significant natural variability.	See response WR-1 regarding the development of the regional groundwater flow model and use of the model simulated 10-foot drawdown for the programmatic analysis of potential effects to water resources. Impacts to water resources in Tippets and Deep Creek Valley are not anticipated.
37015-77	the BLM justifies its use of 1 0-foot drawdown by mentioning other DEISs in which it used similar reasoning. The fact that the BLM did it wrong in the past is not a justification for doing it wrong in this project. This is particularly important because the area between the predicted 10-foot and 1-foot drawdown may be hundreds of square miles, including most of Tippet and Deep Creek Valley.	See response WR-1 regarding the development of the regional groundwater flow model and use of the model simulated 10-foot drawdown for the programmatic analysis of potential effects to water resources. Impacts to water resources in Tippets and Deep Creek Valley are not anticipated.
37015-78	The following are reasons to include lesser drawdowns. • Springs can be dried even if the water table is lowered less than 10 feet. Not identifying the springs between I O-ft and 1-ft of drawdown is a failure to present potential impacts of the proposed project. • Lowered water tables can dry or significantly change the wetland ecosystem types. The same argument as for springs can be made for wetlands. A wetland that is naturally stressed could be killed with just a few feet of draw down. • Less than I 0 feet of draw down can affect wells with a productive zone near the top of the screens.	See response WR-1 regarding the development of the regional groundwater flow model and use of the model simulated 10-foot drawdown for the programmatic analysis of potential effects to water resources. As stated in the Section 3.2.2 of the EIS, "For the purposes of this evaluation, it is assumed that wells located within the areas affected by drawdown of 10 feet or greater could experience impacts" . Water supply wells are typically designed such that the well screen and pump intake are placed several 10's of feet below the static and pumping water level. This design is intended to reduce the potential for natural water level fluctuation and drawdown at the well to expose the well screen or pump intake. Considering the typical well design, it is reasonable to assume for the purpose of the regional programmatic analysis that most water supply wells could accommodate a few feet of drawdown with substantial damage; and that 10 feet or more of drawdown could potentially impact the well. The assumptions used for the analysis are reasonable and clearly stated in EIS.
37015-79	Curiously, although the DEIS relies upon its own model (with the 10-foot drawdown criteria) for most of the potentially affected area, at the request of the National Park Service (NPS), it uses a different, finer grained model with one-foot drawdown contours in its analysis of resources and impacts within Great Basin National Park (GBNP). (DEIS, p. 3.3-90) Apparently the NPS also did not find the BLM's model to be adequate for assessing impacts. The fact that a finer model was used for GBNP indicated that the use of such a model for the remaining areas potentially affected by the Project was both desirable and feasible. Further, Myers also used a model with a 1-foot drawdown in his study of hydrologic impacts of the Project in the northern and eastern parts of the study area. Again this indicates that the use of a finer-grained model is essential to undertaking a "hard look" at the project impacts, as required under NEPA.	See response WR-1 regarding the development of the regional groundwater flow model and use of the model simulated 10-foot drawdown for the programmatic analysis of potential effects to water resources. The CCRP model was used for the entire water resources study area. A separate model referred to in the EIS as the GBNP model was developed by the USGS as described in Section 3.3.2.8 of the EIS. The GBNP model was not used in place of the CCRP model to describe drawdown in the GBNP. Rather, selected results of the GBNP model were provided as appropriate to provide additional discussion of potential effects to modeled springs and streams.
37015-80	As described above, the DEIS's use of the 10-foot minimum groundwater drawdown as its limit for assessment is both unsupported and arbitrary (per 5 U.S.C. § 706(2)(A))2 Agencies have wide discretion when choosing which scientific method to use in order to assess environmental impacts. This discretion must be informed, however, by knowledge of alternative methods. An alternate groundwater assessment method was presented in Myers' comments; the BLM was well aware of this method because it has been presented to them in the past and was used extensively in past water rights adjudication proceedings, to which the BLM was a party. There is no information in the DEIS that BLM was aware of alternative methods to assess groundwater drawdown, considered using alternative methods, or gave reasons for the choice of methods actually used. These facts alone - failure to consider alternative methods and failure to give reasons for their choice of methods- provide reason enough to revise the DEIS and circulate for another round of comment before proceeding to the final EIS. The reader of a draft EIS should be able to comment on the methods not selected, and their reasons for not being selected just the same as the reader should be able to comment on the methods used, and the results of the methods used.	See response WR-1 regarding the development of the regional groundwater flow model and use of the model simulated 10-foot drawdown for the programmatic analysis of potential effects to water resources.

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ID	Comment	Response
37015-81	Patten's research indicates that the DEIS's use of the arbitrary 1 0-foot drawdown as its minimum for considering impacts may have resulted in the EIS substantially underestimated the project's impacts on vegetation. In fact, his studies at several sites in Spring Valley show that most wetland and upland species studied show the potential for substantial changes in cover at drawdowns of one to two meters, or less. Patten provides evidence that most of the changes suggested in DEIS Table 3.5-14 would occur when drawdown levels from pumping are considerably less than the stated 10 feet, and thus changes that are suggested to occur "after" a 10-foot drawdown will occur during the drawdown when the water table is dropping and is shallower than 10 feet.	The 10-ft drawdown is useful in this programmatic analysis to assess broad characterizations of potential impacts over a wide area and period of time with the expectation that assessments will be refined in subsequent NEPA analysis. The BLM recognizes that the collection of additional hydrologic and biologic information, on a local scale, would be necessary to improve the ability to predict drawdown impacts. However, obtaining the detailed site-specific data necessary to develop local-scale models is not considered necessary for the purpose of this programmatic analysis; particularly since details regarding the number, locations, and pumping rates for wells is not yet available. The study by Patten et al. (2008) specifically examined springs and spring-associated plant communities in the Great Basin and Mojave Deserts. Springs and spring-associated plant communities are not a direct corollary with the Wetland/Meadow ET units used for analysis in this EIS, and a direct comparison between the two is problematic, at best. For a further discussion specific to the regional scale numerical groundwater flow model and model simulated 10-foot drawdown contour, please see Standard Resource Response WR-1.
37015-82	even with a few feet of drawdown, the following are likely to occur to a greater extent than identified in the DEIS: • Truncation of the lateral and longitudinal extent of the wetland and wetland/upland transition areas • Declines in areal cover ofhydrophytic vegetation • Composition shifts toward drought-tolerant species for wetland and riparian ecosystems affected by dewatering • In the phreatophytic-upland zone, reductions in soil salinity, a response to reduced capillary rise of salts from the declining shallow water table, may drive shifts toward nonhalophytes. • In the wetland and wetland/upland transition zones along the outflow stream, halophyte cover might increase where less water is available to dilute saline soils.	Section 3.5.28 provides the assumptions used for completing the impact assessment for vegetation.
37015-83	Patten identifies an additional error in the EISs vegetation impact assumptions that results in the document further understating the potential impacts of the proposed Action and alternatives. The DEIS mischaracterizes of the drawdown depths at which phreatophytes may be affected. The DEIS states: "It is assumed that a groundwater depth of 50 feet or deeper in relation to the ground surface elevation is not accessible to the roots of most phreatophytic shrubs and this groundwater depth represents a reasonable boundary for: 1) estimating the deepest root zone extent of plant communities that are at least partially dependent on underlying groundwater" " ... 2) defining a groundwater drawdown boundary that assumes that the roots of overlying plant communities no longer have access to groundwater as a moisture source at depths greater than 50 feet. For example, the phreatophytic shrubland ET that occupies Cave Valley are underlain by existing groundwater depths greater than 50 feet. Therefore, it is assumed that these communities would not be affected by groundwater drawdown in this hydrologic basin." (DEIS. Section 3.5, p. 38) On page 3.5-13, the following statement (which is based on reports about greasewood) is meant to "support" the assumption that groundwater below 50 ft is not accessible to phreatophytes: "The phreatophyte shrub greasewood (Sarcobatus vermiculatus) is a key indicator of relatively shallow groundwater depths in the Great Basin. Studies of root depths of this shrub species in relation to groundwater depth indicate that rooting depths range from the soil surface to as much as 50 feet. Recent studies in the Snake, Spring, and White River valleys (Moreo et al. 2007; Devitt 2008) indicate that depth to groundwater ranged between 10 and 45 feet on sites dominated by greasewood." Patten's analysis found that the first statement above on rooting depths of greasewood to 50 ft is not supported by any references, whereas the references cited in the second statement concern groundwater depths between 10 and 45 ft. Many estimates of rooting depths of desert phreatophytes are based on a combination of known groundwater depths and plant moisture stress. On the other hand, in an extensive USGS study, Robinson (1958) estimated rooting depths of many phreatophytes (see Table 1 of Patten's letter) including about 20 m (ca. 65 ft) for greasewood, which supports the statement above. However, most other phreatophytes that occur in the Great Basin area have rooting depths considerably shallower (are there refs we could cite here?). The latter suggests that the "50 ft. assumption" does not relate to most of the phreatophytes in the areas of concern, other than to suggest that at that depth, all, not "most", phreatophytes would no longer be supported by groundwater.	It is useful in this programmatic analysis to assess broad characterizations of potential impacts over a wide area and period of time with the expectation that assessments will be refined in subsequent NEPA analysis. The BLM recognizes that the collection of additional hydrologic and biologic information, on a local scale, would be necessary to improve the ability to predict drawdown impacts. However, obtaining the detailed site-specific data necessary to develop local-scale models is not considered necessary for the purpose of this programmatic analysis; particularly since details regarding the number, locations, and pumping rates for wells is not yet available. The 50-foot depth is a statistic that is being employed to assess impacts over the project area as a whole. While the literature suggests maximum phreatophyte rooting depths that are both deeper and shallower than 50 feet, the BLM believes that 50 feet is a reasonable assumption for analysis, given both the variability expressed in the literature and the purposes of this programmatic analysis. Subsequent NEPA will perform a more detailed analysis of the effects of groundwater drawdown on vegetation communities.
37015-84	Also, in Patten's 1996 studies of spring areas in Spring Valley, he detennined woody plant cover relative to groundwater (more accurately "water table") depth. Although Patten's monitoring wells seldom went deeper than 4 meters, many woody species did not occur (based on cover measurements) at locations with the water table much deeper than 2 to 3 meters.	It is useful in this programmatic analysis to assess broad characterizations of potential impacts over a wide area and period of time with the expectation that assessments will be refined in subsequent NEPA analysis. The BLM recognizes that the collection of additional hydrologic and biologic information, on a local scale, would be necessary to improve the ability to predict drawdown impacts. However, obtaining the detailed site-specific data necessary to develop local-scale models is not considered necessary for the purpose of this programmatic analysis; particularly since details regarding the number, locations, and pumping rates for wells is not yet available. The referenced study specifically examined springs and spring-associated plant communities. Springs and spring-associated plant communities are not a direct corollary with the Wetland/Meadow ET units used for analysis in this EIS, and a direct comparison between the two is problematic, at best.
37015-85	Air Quality: Dust generation factors are addressed on p. 3.1-34 of the DEIS, which sates, "The change in area for each ET unit is calculated relative to the No Action Alternative for a 10-foot groundwater drawdown .... similar to the calculations shown .. . in Section 3.5 Vegetation Resources."	Please see common response Air-4.

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ID	Comment	Response
37015-86	Terrestrial Wildlife: Use of the 10-foot criteria to identify pumping effects on wildlife is discussed on p. 3.6-71 of the DEIS, which states, "Based on evaluations of the model predicted 10-foot drawdown contour for the Proposed Action pumping and geology and groundwater characteristics, there is potential risk to terrestrial wildlife species ... ". This assessment fails to look at the risk to these species under lesser drawdowns, which, given vegetative changes predicted by Patten, may substantially increase the impacts.	Please see Standard Resource Response WR-1.
37015-87	Aquatic Biological Resources: Use of the 10-foot criteria to identify pumping effects on aquatic biological resources is discussed on p. 3.7-40 of the DEIS, which states, "Based on evaluations of the model-predicted 10-foot drawdown contour for the Proposed Action pumping and geology and groundwater characteristics, aquatic biological resources could be affected in portions of six basins ... ". This assessment fails to look at the risk to these species under lesser drawdowns, which, given potential hydrologic changes predicted by Patten, may substantially increase the impacts.	When considering the regional scale of the study area, the use of the 10-foot drawdown contour area is considered a reasonable and appropriate reference to identify water-dependent resources potentially adversely affected by groundwater pumping. Additional details on this part of the analysis are provided in Section 3.3.2.8 in Water Resources under the heading, Defining the Drawdown Area. Also see Standard Resource Response WR-1.
37015-88	Land Use: Use of the 1 0-foot criteria to identify pumping effects on land use is discussed on p. 3.8-24 of the DEIS, which states, "Public lands that are available for disposal might be less desirable for other land uses if they were within the 10-foot drawdown areas, as water and vegetation resources in some areas could be altered over time as discussed in Section 3.3, Water resources, and Section 3.5, Vegetation." This assessment fails to look at potential land use effects in areas subject to lesser drawdowns, which, given vegetative changes predicted by Patten and hydrologic changes identified by Myers, may be substantial.	Thank you for your comment. Please see Standard Resource Response WR-1.
37015-89	Recreation: Use of the 1 0-foot criteria to identify pumping effects on recreation is discussed on p. 3.9-28 of the DEIS, which states, "Drawdown effects may reduce water levels in ponds, springs, and perennial springs and alter vegetation, which could change the recreation setting and wildlife use patterns and subsequently affect wildlife-based recreation ... " The DEIS then states "recreation areas with perennial streams at moderate to high risk of being affected by a 10-foot or greater drawdown under the proposed Action include ... " The sections also addresses springs in terms of the 1 0-foot drawdown criteria. This assessment fails to look at potential recreation effects in areas subject to lesser drawdowns, which, given vegetative changes predicted by Patten and hydrologic changes identified by Myers, may be substantial.	Thank you for your comment. Please see Standard Resource Response WR-1.
37015-90	Rangelands and Grazing: Use of the 1 0-foot criteria to identify pumping effects on rangeland and grazing is discussed on p. 3.12-41 of the DEIS, which states, "For the purposes of this EIS, the index for delineation of drawdown with potential effects to water sources was determined by the 10-foot or greater drawdown contour, as predicted by the groundwater model." Given vegetative changes predicted by Patten and hydrologic changes identified by Myers, the DEIS's identified 200,000-acre potential impact area may understate the actual Project effects.	Please see Standard Resource Response WR-1.
37015-91	Wild Horse and Burro Herd Management Areas: Use of the 10-foot criteria to identify pumping effects on land use is discussed on p. 3.13-19 of the DEIS, which states, "estimates of effects to areas containing wetland vegetation and phreatophytes were determined based on the areas that occur where the 1 0-foot or greater drawdown contour overlaps with areas where depth to groundwater is less than 50 feet, respectively, as predicted by the groundwater model. For more detailed information on the model analysis see Vegetation Resources, Section 3.5.2.8." Similarly, this section states, "Estimates of the effects to water supplies (streams and springs) within HMAs were based on their location within the areas of low, medium, or high risk (as predicted by the area geology and the groundwater model predictions of drawdown of 10-foot or greater (sic))". This assessment fails to look at potential wild horse and burro management area effects in areas subject to lesser drawdowns, which, given vegetative changes predicted by Patten and hydrologic changes identified by Myers, may be substantial.	See Standard Resource Response WR-1 regarding the 10-foot drawdown.
37015-92	Special Designations and Wilderness Lands: Use of the 1 0-foot criteria to identify pumping effects on lands with special designations and wilderness areas is discussed on p. 3.14-20 of the DEIS, which states, "Gradual changes in wetland meadow and phreatophyte (i.e. basin shrubland) vegetation communities from groundwater drawdown could adversely affect water- and wildlife- related values in special management areas. The analysis was conducted on areas where the 10-foot drawdown overlapped with areas of groundwater shallower than 50 feet (as detailed in Section 3.5.2.8, Vegetation Resources)." This assessment fails to look at potential effects in special designation and wilderness areas subject to lesser drawdowns, which, given vegetative changes predicted by Patten and hydrologic changes identified by Myers, may be substantial.	Thank you for your comment. Please see Standard Resource Response WR-1.
37015-93	Socioeconomics: Use of the 10-foot criteria to identify pumping effects on socioeconomic factors is discussed on p. 3.18-68 of the DEIS, which states, "The combined area of private agricultural land affected by drawdown of 10 feet or more increases to 17,192 acres when the groundwater pumping simulation is extended to full build out plus 200 years. Furthermore, the severity of the drawdown effects increases such that the areal extent of agricultural lands affected by drawdown of 50 feet or more increases to 13,439 acres, nearly 54 percent of all private agricultural lands in the Spring and Snake valleys." Given vegetative changes predicted by Patten and hydrologic changes identified by Myers, the DEIS's identified potential impact acreages may understate the actual Project effects.	Section 3.5.28 provides the assumptions used for completing the impact assessment for vegetation.

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ID	Comment	Response
37015-94	The DEIS considers the alternatives for only 200 years, which is a failure to disclose all the potential impacts of granting this right-of-way and allowing the concomitant pumping. This is an insufficient time period because the groundwater systems do not even approach equilibrium within 200 years. Equilibrium would occur at the time that the pumping essentially ceases to remove groundwater from storage. It is the time at which the pumping has captured an equivalent amount of natural discharge, meaning wetlands evapotranspiration (ET) and spring discharge. At this point the drawdown will have reached its maximum extent and the impacts caused by the project will be at a maximum. The maximum extent as described below in the simulations completed for this review reach Tippet and Deep Creek Valley, areas which the DEIS primarily ignores.	Please refer to standard resource response WR-2 for information on this topic.
37015-95	Predicted water levels for various wells, for example, welll84 NllE6713Bl USBLM (DEIS, Figure 3.3.2-7), begin to decrease by the time of full build-out, but in the long-term trend almost linearly downward. Two hundred years after full build-out, the water levels are decreasing almost as rapidly as just a few years after full build-out. This demonstrates clearly that the impact will continue to worsen far beyond the time period as presented in the DEIS. The 200-year time frame is arbitrary. As documented in the Myers report, the BLM in Nevada commonly analyzes the effects of open pit mines that will take more than 200 years to fill with groundwater, thereby forming a pit lake. Longer analyses are necessary even though the predictions become more uncertain. The choice the BLM leaves the reader is between uncertain predictions and no predictions at all. The issues regarding uncertainty beyond 200 years are similar to those discussed and rejected above regarding the use of a 10- foot drawdown cone. The uncertainty could be considered with a stochastic analysis wherein they present the drawdown contours and hydrographs with a confidence band. Unless the Project proposes to cease groundwater pumping after 200 years, the analysis should consider a much longer pumping period.	Please refer to standard resource response WR-2 for information on this topic.
37015-96	SNWA's analysis underestimates the drawdown As detailed in Myers, (September 2011) predicted drawdown reaches the model boundary at Pine Valley (DEIS, p. 3.3-110). This demonstrates the BLM made an error in establishing the boundaries for the numerical groundwater model.	Please refer to standard resource response WR-6 for information on this topic.
37015-97	In general, the estimates should not be considered conservative, as claimed in the DEIS. Drawdown and springflow reductions are as likely to have been underestimated as overestimated.	Comment noted.
37015-98	The DEIS geology section identifies major land subsidence. This indicates that the Project would result in a significant perma!lent loss of aquifer capacity. The DEIS does not mention this issue. It should be addressed in the EIS, along with any long-term effects on groundwater recharge potential.	Additional text was added to Section 3.3.2 to discuss the potential changes in aquifer storage properties within the drawdown area.
37015-99	According to the Southwest ReGap report, the ReGAP data was not created at an appropriate scale to support this type of fine scale analysis of the ROW areas. Specifically, identifying and quantifying the occurrence and extent of vegetation communities that naturally exist in small patches on the landscape (e.g., spring/wetland and riparian vegetation communities and species) is not an appropriate use of the SW ReGAP land cover data. The following excerpts from the Southwest ReGap report4 clearly identify the appropriate and inappropriate use of the data. The ReGAP report explicitly states on page 190: (http://fwsnmcfwru.nmsu.edu/swregap/report/S WReG AP%20Final %20Report%20Chapter%207 %20Product%20Use%20and%20Avai1ability.pdf. "Scale: First we must address the issue of appropriate scale to which these data may be applied. The data were produced with an intended application at the ecoregion level, that is, geographic areas from several hundred thousand to millions of hectares in size. The data provide a coarse-filter approach to analysis, meaning that not every occurrence of every plant community or animal species habitat is mapped, only larger, more generalized distributions. The data are also based on the USGS 1:100,000 scale of mapping in both detail and precision ... The wetland ecosystems of interest in this region naturally occur in patches far smaller than "larger, more generalized distributions", and many would likely be missed at the 1: I 00,000 scale.	Please see Standard Resource Response VEG-4.

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ID	Comment	Response
37015-100	"Inappropriate Uses: It is far easier to identify appropriate uses than inappropriate ones, however, there is a "fuzzy line" that is eventually crossed when the differences in resolution of the data, size of geographic area being analyzed, and precision of the answer required for the question are no longer compatible. Examples include: • Using the data to map small areas (less than thousands of hectares), typically requiring mapping resolution at 1 :24,000 scale and using aerial photographs or ground surveys." The DEIS did this "• Combining GAP data with other data finer than l: 100,000 scale to produce new hybrid maps or answer queries." The DEIS did this when it combined ReGAP with ROW data "• Generating specific areal measurements from the data finer than the nearest thousand hectares (minimum mapping unit size and accuracy affect this precision)." The DEIS did this "• Establishing definite occurrence or non-occurrence of any feature for an exact geographic area (for land cover, the percent accuracy will provide a measure of probability)." DEIS essentially did this. By quantifying the amount of features that cover "less than 1%" of the ROW, the EIS implies that it knows the feature exists there, based on the ReGAP. "• Determining abundance, health, or condition of any feature." DEIS did this "• Using the data without acquiring and reviewing the metadata and this report. It appears the authors of the DEIS also failed to review the ReGAP report prior to doing their analysis.	The Final EIS utilized multiple data sources to classify impacts to vegetation including Southwest Regional Gap Analysis Program (SWReGAP). Both SWReGAP and LANDFIRE are provided at the same resolution (30x30 meter) and so neither dataset provides a particular advantage over the other for the purposes of the EIS analysis. The Vegetation Affected Environment section uses SWReGAP to characterize the types of communities that exist within the ROW and GWD areas. Please note that Table 3.5-7 also explains the ET types in the Region of Study later used to describe potential groundwater pumping impacts, Section 3.5.2.8. The Vegetation Environmental Consequences section uses SWReGAP for the ROW impact analysis. Note that surveys of the ROW were conducted and only one perennial stream is crossed (Section 3.3) and no wetlands are crossed (Appendix E). The methodology for the programmatic assessment of potential impacts to vegetation from groundwater pumping is explained in Section 3.5.2.8. Pumping impacts use ET vegetation types from a model developed by USGS which classified vegetation into evapo-transpiration Units (ET Units). This model used multiple data sets including: 1) slope analysis, 2) previous regional analysis, 3) National Land Cover Data (NLCD) and Southwest Regional Gap Analysis Program (SWReGAP), 4) Aerial photography (USGS Digital Orthophoto Quarter Quads and Clark County Aerials), 5) Satellite Imagery (Landsat 7), and 6) GPS data. The output classified vegetation ET units that were then simplified into five types for the EIS: 1) Open Water, 2) Bare Soil/Low Vegetation, 3) Phreatophyte/Medium Vegetation, 4) Meadow/Wetland and 5) Agriculture (see table 3.5-7). These data are at an appropriate scale to allow for the type of programmatic impact analysis conducted in the Final EIS. In addition to these ET vegetation data, the USGS National Hydrography Dataset (NHD) was used to classify springs and streams impacts. Local knowledge was collected to further classify springs and streams as perennial, intermittent or ephemeral. These are the groundwater dependent types (Wetland/Meadow, Basin Shrubland, Springs and Perennial Stream Reaches) that are quantified in each of the alternative's summary tables (e.g. Table 3.5-14) in the vegetation groundwater pumping sections as well as in the terrestrial wildlife groundwater pumping sections and appendix tables (e.g. Appendix F, Table F3.6-9).
37015-101	Because of this misuse of the ReGap database, the DEIS may have omitted entirely many of the smaller wetland/riparian plant communities in the project area and/or understated the size of many of the most sensitive habitats in the study area. In addition, the combined acreage of wetland lost or otherwise affected is likely substantially understated in the EIS.	Please see response VEG-4 for a discussion on the use of the Southwest ReGAP dataset. Potential long-term impacts to vegetation related to groundwater drawdown are addressed at a programmatic level in this EIS. Impacts related to specific wetlands will be analyzed in greater detail in future NEPA.
37015-102	Given the above described flaws in the DEIS assessment of project impacts on native vegetation communities; it is likely that their assessment of impacts on native wildlife species (many of which depend strongly on the wetland/spring/riparian communities that are rare in the Great Basin}, is also flawed. In the Great Basin (more so than in many similar desert biomes), these spring/wetland/riparian areas provide keystone resources for many wildlife populations and thus in many respects drive the biodiversity of the region. Therefore this analysis must be revisited using an appropriate data set. For example, the LANDFIRE database could be used, and does not have the limitations on use and accuracy found in the ReGap database.	Please refer to Standard Resource Response VEG-4 regarding the use of SWReGAP and other data for the EIS analysis.
37015-103	Although the DEIS acknowledges that groundwater quality degradation is an issue that should be assessed (p. 3.3-80), it fails to assess the Project's effects on that topic. The DEIS includes a single paragraph addressing water quality impacts (p. 3.3-113), and that paragraph provides no information on the potential impact. Instead, it provides generic statements that it is not possible to predict water quality impacts. The project may change salinity and mineral composition in well water used by residents, farms, ranches, wildlife, and businesses in the affected area as groundwater is drawn down. Therefore the EIS should evaluate, at least at a programmatic level, the potential impacts of those changes. The current approach does not meet NEPA's "hard look" standard for analysis.	See response WR-7 and additional text provided in Section 3.3.2.9 regarding potential impacts to water quality.
37015-104	The DEIS identifies (and likely understates) large-scale and widespread dust generation as a result of both Project construction and Project groundwater withdrawals. This dust may adversely affect health or residents and workers in the affected areas, as well as in areas where the dust might blow. The DEIS includes no discussion of the health risks of this dust.	Particulate emissions effects on human health have been considered in the development of air quality standards (see section 3.3.1.2 in the FEIS). Refer also to Standard Resource Response Air-3 and Air 4.
37015-105	Section 3.7, Aquatic Biological Resources correctly identifies effects to aquatic invertebrates, however fails to do so for the fish. Instead, it just says that the various affected species "could be adversely affected" and identifies the basins and springs in which the effects could occur (pp. 3.7- 50, 51). The reader is given no information of the potential severity of the impact or the need for, or availability of, mitigation (beyond monitoring, which by itself does not constitute mitigation). Similarly, Figure 3.7-21 identifies numbers of streams, stream miles, waterbodies, and springs that would be affected, but neither the figure nor the accompanying text provides any context for the reader to understand what this means in terms of the affected resource (i.e. fish). Substituting impacts to water features for impacts fish does not help the reader understand the impacts to the fish.	Potential effects of groundwater pumping on game and special status fish species are discussed for each alternative. The text is supported by Appendix Tables F3.7-11 through F3.7-39 (individual alternatives and cumulative pumping). Fish species potential affected in streams and springs are listed in these tables. Applicant-committed measures and mitigation are recommended for all alternatives; a more detailed discussion is presented in the Proposed Action pumping section.
37015-106	DEIS recognizes the primary importance of the ambient effects of air pollutants, but does not include methodology or quantitative modeling to detennine project-induced ambient pollutant concentrations at sensitive receptors in the project area, nor does it assess the severity of such concentrations in conjunction with existing or future ambient pollutant background levels and visibility conditions.	Please see common responses Air-7 and Air-9.

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ID	Comment	Response
37015-107	The DEIS only considers pollutant emissions from project construction equipment/activity, project operation and soil dehydration in the ground water basins. But the project would have a major indirect effect on residential, commercial, industrial and transportation pollutant emissions in Clark County urban areas by providing a completely new source of water to support and promote continued population and economic growth there. Such emissions would not exist without the expanded water supply and their effects must be estimated and included with direct project effects in the comparison to regional air quality attainment plan goals or federal confonnity thresholds.	Please refer to standard resource response Air-19 for information on this topic.
37015-108	The DEIS does not perform a complete cumulative analysis. Only direct project sources related to the proposed facility's construction and operation are included, not the complete ambient impacts of other non-project pollutant sources in the areas affected by the project emissions, specifically the fine particulate matter background concentrations in the desert areas, and carbon monoxide, ozone and fine particulate matter concentrations produced by existing and future cumulative sources in the Las Vegas and Salt Lake City areas.	Please see common responses Air-20 and Air-21.
37015-109	The DEIS includes a generic discussion of climate change (Air Quality, Section 3.1.3), but, in each of the relevant subsequent impact analyses states only, "These effects could be in combination with GWD pumping. As a result of the current knowledge of climate change, it is not possible to relate potential effects with respect to specific pumping alternatives that are analyzed in the EIS" (see, for example, p. 3.6-60- Terrestrial Wildlife). As discussed in Section 3.3.3, a number of studies exist indicating generally wanner conditions, earlier snowmelt, impacts to springs and stream hydrology and temperature, and climate-induced changes in vegetation and wildlife favoring drought-tolerant and heat-tolerant species. More recently, the US Forest Service's issued Humboldt-Toiyabe National Forest Vulnerability Report 2011 [USFS 2011], which addresses potential effects of climate change to natural resources in much of the Project area.	Please see common response Air-16.
37015-110	With respect to riparian ecosystems, the USFS study states, Warmer temperatures, decreased snowpack and earlier run-off have resulted in a longer period of hot season gazing by livestock. During the hot season, cattle and horses tend to stay in riparian areas for shelter and forage. The resulting effect is a loss of vegetative cover, increased soil exposure, increased soil compaction and streambank alteration, and lowering of the water table. Climate change with increasing temperature will extend the hot season, and could result in increased loss of riparian ecosystems, unless livestock are managed.	Please see common response Air-15 and Air-16.
37015-111	With respect to invasive species, the USFS study states, "Invasibility of cheatgrass (Bromus tectorum) varies across elevation gradients on the Forest and appears to be closely related to temperature at higher elevations and to soil water availability at lower elevations. Cold soil temperatures at higher elevations limit the growth and reproduction of cheatgrass. High variability in soil water and lower average perennial herbaceous cover appear to increase invasion potential at low to mid elevations explaining the high susceptibility of more mesic Salt desert shrub and Wyoming sagebrush ecosystems to invasion by cheatgrass. Fire and removal of perennial herbaceous species increases the susceptibility to invasion due to elevated soil water and the lack of competition."	Section 3.5 in the FEIS contains a detailed discussion on invasive species and the project impacts.
37015-112	With respect to effects of climate change on riparian habitats, the USFS study states, "Riparian areas also serve as the foundation of much of the region's biological diversity. Declining conditions in riparian areas are likely to have cascading effects not only on aquatic species, but on the many upland species that use these ecosystems as their sole source of water (Chambers 2011)."	Thank you for expressing your concerns related to potential future effects of climate change and associated uncertainty. To facilitate information synthesis, the text related to the climate change analysis was reorganized in the Final EIS. Information previously presented in the air resources Section 3.1 has been reorganized into the cumulative effects section of each resource potentially affected by climate change.
37015-113	Similarly, the USFS report assesses the effects of climate change on sagebrush habitat, "Big sagebrush habitats throughout the western U.S. could decrease in area by 59% before the end of the 21st century, with devastating consequences for sage grouse, mule deer, pronghorn and other species that depend on these habitats (Glick 2006)."	Thank you for expressing your concerns related to potential future effects of climate change and associated uncertainty. To facilitate information synthesis, the text related to the climate change analysis was reorganized in the Final EIS. Information previously presented in the air resources Section 3.1 has been reorganized into the cumulative effects section of each resource potentially affected by climate change.
37015-114	The DEIS makes no attempt to add, at a program level, these anticipated effects of climate changes to project effects. This violates NEPA 's "hard look" requirements.	Please see the custom response Air-17.
37015-115	Potential effects on modeled groundwater drawdown and resulting combined (project plus cumulative plus climate change) impacts to springs and streams	Comment noted.
37015-116	Potential long-term combined (project plus cumulative plus climate change) effects on fish and other aquatic resources.	Please refer to standard resource response Air-17 for information on this topic.
37015-117	Potential long-term combined (project plus cumulative plus climate change) effects on plants and terrestrial biological resources.	Please refer to standard resource response Air-17 for information on this topic.
37015-118	Potential long-term combined (project plus cumulative plus climate change) effects on grazing resources, land use, and socioeconomic effects.	Please see the sections of relevance in the FEIS.

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37015-119	One fundamental flaw in this DEIS is that the agency has not investigated the adverse consequences for the possibility of avoidance for many of the identified Project impacts. This DEIS reads as though an EIS is supposed to show the adverse consequences of each alternative and compare them to one another, and then the job is done. This is false. Of course an EIS is supposed to show the adverse consequences of each alternative. Of course an EIS is supposed to compare the alternatives to each other. But an EIS is supposed to go one step further: NEP A states, "The discussion will include . . . any adverse environmental effects which cannot be avoided should the proposal be implemented . . . . This section ... shall include discussions of ... Means to mitigate adverse environmental impact (if not fully covered [elsewhere])." 40 CFR § 1502.16{h). Therefore the EIS must disclose the adverse effects "which cannot be avoided." NEPA 102(2)(C)(ii). The only way to know whether an adverse effect can or cannot be avoided is to investigate and report on its avoidance. This DEIS has not done that. The duty to investigate whether adverse consequences can be avoided has been enforced in the Supreme Court and in the Ninth Circuit.6	Applicant-committed measures and mitigation are recommended to avoid or reduce impacts to environmental resources. These measures are discussed in each environmental resource section and summarized in Section 3.20. The EIS discloses that some residual effects will occur after applying mitigation, as discussed in Chapter 4. Please see standard response Gen-1 for further information.
37015-120	It is of no help to the reader that the proposed action and alternative actions have built-in mitigation. This is explained, for example, on pages ES-20 and 21. Best Management Practices (BMPs) and Applicant-Committed Measures (ACMs) have been incorporated into the alternatives. These are important because they may be necessary to meet agency policies and in some cases environmental standards. But there are still left-over adverse consequences, even considering all the BMPs and ACMs. The EIS must identify whether these adverse consequences can be avoided. NEPA § 1 02(2){C)(ii) requires that they be disclosed, if they exist. This DEIS does not tell the reader whether they exist. There is no "significance" threshold for revealing these effects, so it is of no help to the reader that the BMPs and ACMs may "reduce, avoid, or offset some of the adverse environmental consequences," as it says on page ES-21 (emphasis added). The point remains that there are adverse environmental consequences, even after mitigation, and this DEIS does not inform the reader whether these adverse consequences can be avoided.	Additional mitigation is recommended to further reduce impacts in combination with BMPs and applicant-committed measures. If impacts can be avoided or reduced in duration or intensity, they are recommended where appropriate. Significance thresholds are not required in NEPA analyses.
37015-121	The DEIS includes a project-level analysis of construction of the main pipeline and ancillary facilities, and a program-level assessment of the groundwater development and groundwater pumping, which will be further defined after the water rights adjudications are complete and SNWA's pumping plans are more fully developed. This approach is logical, however it must be carefully implemented to avoid inappropriate deferral of impact analysis and mitigation. A well constructed program-level EIS will identify the program impacts and then identify feasible general mitigation measures for those impacts. Those mitigation measures may then be refined during the project-level NEPA analysis for specific application to the detailed proposal. A program-level EIS may not defer the entire mitigation to the project-level NEPA review. In a number of cases, this EIS improperly defers both analysis and mitigation of significant program impacts.	The monitoring, mitigation, and management plan was expanded to further describe the overall process. Some new monitoring and mitigation measures were revised or added to the FEIS. As stated in the comment, additional detail will be added to the MMM Plan and specific monitoring and mitigation measures in subsequent NEPA.
37015-122	Similarly, a project-level EIS also may not substitute additional studies for actual mitigation. NEPA permits and encourages monitoring, but there is a major difference between monitoring and actual mitigation. In short, monitoring absent prescriptive actions triggered by the results of the monitoring does nothing to mitigate the identified impact. As described above, the EIS must identify feasible mitigation for all impacts and then identify which, if any, effects cannot be avoided. Yet this EIS fails to diligently pursue mitigation and, in turn, fails to inform the reader which impacts are unavoidable.	Some additional studies are recommended to obtain the necessary information to determine baseline conditions and assist in defining trigger mechanisms for mitigation. The monitoring and mitigation plan and additional mitigation has been defined to the extent possible for this programmatic level of analysis. More detail will be added to the paln and measures as part of subsequent NEPA; please see Standard Resource Response Gen-2.
37015-123	in numerous instances the EIS relies upon these vague, toothless, and deferred mitigation measures to make conclusions that an impact would be substantially mitigated. A non-comprehensive list of examples of this problem (focusing on groundwater withdrawal impacts and mitigation) is presented in the table, below. There are many other similar examples throughout the impact/mitigation sections of the EIS.	Please refer to standard resource responses MM-2 and section 3.20.
37015-124	In its impact analyses, the EIS repeatedly claims that the BLM has no authority over groundwater withdrawal rates. This is not the case. The EIS confirms this (DEIS p. 2-5), stating, "Under FLPMA, the BLM has the authority to 'protect the quality of scientific, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values.'" As a signatory to the stipulation agreements for Spring, Cave, Dry Lake, and Delmar Valleys, the BLM may negotiate monitoring programs that would identify changes in the quantity and quality of natural resources on the BLM-administered public lands. Through these same authorities and agreements, the BLM may request and enforce changes in groundwater pumping rates to protect water-dependent natural resources on the BLM-administered public lands." The EIS does impose limitations on groundwater withdrawal in Great Basin National Park and near some of the federal Wildlife refuges. It is unclear why the BLM considers those limitations to be feasible but refuses to consider similar limitations on other sensitive lands. In addition, overall groundwater withdrawal rates can be controlled by limiting the number and location of wellheads, which the BLM has full authority over. Finally, as discussed below, the Project is required to conform with BLM's Resource Management Plans for the Project area. Imposing limitations on location of groundwater withdrawal is one of the BLM's primary tools for assuring compliance with its Plans. Therefore, the EIS should and can include both alternatives and mitigation measures that limit groundwater withdrawal from public lands under its jurisdiction.	Please see standard resource response Gen-1, MM-1 and MM-2 for information on this topic.

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37015-125	NEPA requires the consideration of growth-inducing impacts7 • However, NEPA offers no specific guidance with respect to defining what is or is not "growth-inducing". We respectfully request that the BLM consider the more extensive guidance on this topic provided by the California Environmental Quality Act (CEQA) Guidelines. (CEQA, adopted in 1970, was patterned after NEPA). Section 15126{d) of the CEQA guidelines specifically defines growth inducement as potentially caused by removal of an obstacle to growth8 • It is clear that, absent adequate water supplies, the Las Vegas area cannot continue to grow indefinitely. It is also clear that the only reason that the project has been proposed is to facilitate growth of that area by removing a critical obstacle to future growth. The DEIS claims that the Project "would enable but not drive growth" (p. 3.18-72). There is no functional difference between enabling growth and driving growth. In either case, growth that would otherwise not occur, would be led, moved, or caused to occur (see definition of "induce at: http://dictionary.reference.com/browse/induce). The DEIS should be revised to acknowledge that the project, in removing this obstacle, would be growth inducing. The DEIS should also generally address the potential effects of this growth. See also our comments on the air quality assessment, above.	The EIS concludes that the long-term production and conveyance of water to the Las Vegas Valley and portions of Lincoln County could function in conjunction with other factors to enable future population growth anticipated by Clark County, Lincoln County, and their municipalities. While a lack of water would be a constraint to growth, water availability, in and of itself, would not be the underlying cause of future growth. The EIS identifies in Section 3.18.2.9 the complex factors (e.g., climate change, changes in the Colorado River system flows, augmentation of Colorado River allocations from Lincoln and White Pine Counties) which influence the extent to which water supply could enable or constrain growth. In addition to water supply, the EIS also identifies other factors which influence growth, including global, national, and local economic conditions, as well as state and local laws, ordinances, policies, and plans which manage growth and the effects of anticipated growth. Given the multiplicity and complexity of these factors, identifying the infrastructure, associated costs, and environmental degradation associated with enabling growth attributed to water supply is not possible, and would be entirely speculative. Moreover, during the NEPA scoping process, public meetings and public comment, and consultation with state and local officials, BLM solicited comments and recommendations regarding additional analysis of growth induced effects. That process did not yield any additional methodology to study growth induced effects beyond analysis set forth in Section 3.18.29.
37015-126	A second aspect of the project's growth inducement is even more straightforward: the BLM's approval of the pipeline would induce development of the wellfields and associated facilities. Although the DEIS assesses, at a program level, potential effects of the wellfields, it fails to identify the pipeline as inducing the their development.	The purpose of this EIS is to analyze impacts related to the right-of-way, access roads and ancillary facilities. The proposed pipeline routes, as submitted by the applicant, have been analyzed in this EIS and the impacts associated with the proposed alignment have been presented therein. Impacts related to well locations, pumping, and groundwater drawdown are analyzed on a programmatic level and may be analyzed in further detail in future NEPA. The EIS concludes that the long-term production and conveyance of water to the Las Vegas Valley and portions of Lincoln County could function in conjunction with other factors to enable future population growth anticipated by Clark County, Lincoln County, and their municipalities. While a lack of water would be a constraint to growth, water availability, in and of itself, would not be the underlying cause of future growth. The EIS identifies in Section 3.18.2.9 the complex factors (e.g., climate change, changes in the Colorado River system flows, augmentation of Colorado River allocations from Lincoln and White Pine Counties) which influence the extent to which water supply could enable or constrain growth. In addition to water supply, the EIS also identifies other factors which influence growth, including global, national, and local economic conditions, as well as state and local laws, ordinances, policies, and plans which manage growth and the effects of anticipated growth. Given the multiplicity and complexity of these factors, identifying the infrastructure, associated costs, and environmental degradation associated with enabling growth attributed to water supply is not possible, and would be entirely speculative. Moreover, during the NEPA scoping process, public meetings and public comment, and consultation with state and local officials, BLM solicited comments and recommendations regarding additional analysis of growth induced effects. That process did not yield any additional methodology to study growth induced effects beyond analysis set forth in Section 3.18.29. See also Gen-1 for more information on tiering. .
37015-127	This EIS fails to make the required conformity determinations. First, although the DEIS includes a cursory discussion of the RMP on pp. 2-9-2-13, it fails to make any "finding" that this project will conform to the RMPs. Is summarizes BMPs and the additional mitigations identified in the EIS, but does not make any conclusion or finding of conformity with the RMPs. The DEIS states only that, "These additional measures conform to the resource management direction contained in the RMPs." Page 2-9. That statement is not a finding on conformance with the RMP. The DEIS needs to clearly answer the questions: Does the project conform? Will this be multiple use, sustained yield?	Both the BLM Ely and Southern Nevada District RMPs have been reviewed and the BLM has determined that no plan amendments are needed at this time to proceed with SNWA's request for a ROW grant. This initial tier of programmatic analysis related to future facilities and potential groundwater drawdown will set the stage for subsequent analysis in future tiers. Future NEPA will determine the applicability of the RMPs in effect at that time.

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37015-128	this DEIS fails to identify the conformity of the Project's proposed groundwater withdrawal with the Ely RMP. Instead, the DEIS impermissibly kicks the can down the road: "For groundwater development facilities, the BLM would make determinations on RMP conformance in future NEPA analyses (subsequent tiers). The following are examples of potential future effects on resources that may not conform to management actions contained in the Ely District RMP: Aquatic resources in Shoshone Ponds and vegetation resources in the Swamp Cedars and Baking Powder Flat ACECs may be affected by construction of groundwater development facilities, and aquifer drawdowns from pumping in the future. These areas are classified as avoidance areas, on which facilities may be located on a case-by-case basis. Management direction for the effects of aquifer drawdown from groundwater pumping on these ACECs is not included in the Ely District ROD management prescriptions for the ACECs (BLM 2008b), and groundwater pumping may not comply with the management prescriptions to protect the identified sensitive vegetation and other biotic communities. Potential riparian vegetation changes related to aquifer drawdown may occur within some wilderness areas (e.g., Fortification Range, Highland Ridge, and Mount Grafton) based on estimated aquifer drawdown contours. Groundwater pumping and the related impacts may not comply with the Wilderness Act and its requirements to protect the vegetation and other biotic communities found within the wilderness areas. The visual impacts of the future project construction may not comply with Visual Resource Management (VRM) guidelines in the RMP; a final determination of compliance would be made when site-specific facility locations are proposed and evaluated. The NEPA question is compliance with the Resource Management Plans (40 CFR 1502.16(c) ..... "Possible conflicts between the proposed action and the objectives of Federal ... land use plans .... " An EIS must disclose possible conflicts; if this information is not in the DEIS, the DEIS must be revised so this disclosure can be subject to public notice and comment. This draft EIS fails to disclose whether or not the proposed actions and alternative actions have possible conflicts with the RMPs. The DEIS includes a lengthy programmatic assessment of the proposed groundwater pumping's effects on the environment (flawed as it may be). Thus it is clearly feasible to assess the Project's conformity with the applicable RMPs. Instead of providing the required information, the EIS's takes a "head-in-the-sand" approach, which does not meet NEPA's requirements for full and reasonable disclosure of the Project RMP conformity. Given that the pipeline project has no utility absent the groundwater pumping, the conformance of both project components with the RMPs must be analyzed in this program EIS.	Both the BLM Ely and Southern Nevada District RMPs have been reviewed and the BLM has determined that no plan amendments are needed at this time to proceed with SNWA's request for a ROW grant. This initial tier of programmatic analysis related to future facilities and potential groundwater drawdown will set the stage for subsequent analysis in future tiers. Future NEPA will determine the applicability of the RMPs in effect at that time.
37015-129	The DEIS must therefore answer the question, "does the project comply with the RMPs?" If not, the BLM may not approve the project under the current RMPs. The DEIS is impermissibly mute on this critical issue. Therefore it must be revised to include the required conformity analysis and recirculated for public review and comment. A review of the Project impacts as identified in the DEIS with respect to the RMP's policies indicates that the Project would not conform with the Ely RMP, which applies to much of the Project area.	Both the BLM Ely and Southern Nevada District RMPs have been reviewed and the BLM has determined that no plan amendments are needed at this time to proceed with SNWA's request for a ROW grant. This initial tier of programmatic analysis related to future facilities and potential groundwater drawdown will set the stage for subsequent analysis in future tiers. Future NEPA will determine the applicability of the RMPs in effect at that time.
37015-130	WR-1: Ensure authorized activities on public lands do not degrade water quality by complying with the Clean Water Act and Nevada Water Pollution Control Regulations (Nevada Revised Statute 445A). Cooperate with the Nevada Division of Environmental Protection to reduce nonpoint source water pollution as per the Memorandum of Understanding between the BLM and Nevada Division of Environmental Protection dated September 2004. WR-2: Integrate land health standards, best management practices, and appropriate mitigation measures into authorized activities to ensure water quality meets state requirements and BLM resource management objectives (BLM Manual 7240 Nevada Supplement). WR-3: Recognize community wellhead protection areas approved by the State of Nevada and only authorize activities within such areas that do not have potential for degrading groundwater quality. Project Conformity: The DEIS fails to assess the Project's groundwater pumping for conformity with the applicable regulations, however, given the massive impacts on the groundwater table, it is likely that water quality also will be affected. This issue should be reviewed in the EIS.	Conformance of the proposed and alternative ROWs with the applicable RMPs was evaluated in Section 2.3.1 Bureau of Land Management Resource Management Plans. As described in Section 2.3.1 "For groundwater development facilities, the BLM would make determination on RMP conformance in future NEPA analyses (subsequent tiers)" (i.e. after actual plans for development of the well fields have been provided to the BLM).
37015-131	WR-4: Maintain or improve watershed conditions by controlling or restricting land uses and utilizing tools, where appropriate, to promote desired vegetation conditions. Project Conformity: The DEIS found that the project groundwater pumping would result in hundreds of thousands of acres where vegetation would change due to lowering of groundwater and associated impacts to wetlands, springs, and streams. Therefore the Project fails to conform to this Goal and Action.	This management decision from the Ely RMP is general guidance to Ely BLM staff and managers for implementation and management of land uses. The Ely ID team kept this management direction in mind when devising mitigation for this project. However, this general direction does not limit or constrain BLM's mandate to respond to ROW applications. Please refer section 3.20 for a complete discussion of the monitoring, management and mitigation associated with this project.
37015-132	SR-1: Restore and maintain desired range of conditions to increase infiltration, conserve soil moisture, promote groundwater recharge, and ground cover composition (including litter and biotic crusts) to increase or maintain surface soil stability and nutrient cycling. Project Conformity: The DEIS found that the project groundwater pumping would result in hundreds of thousands of acres of subsided land due to lowering of groundwater. This would reduce the potential for groundwater recharge substantially throughout the region. Therefore the Project fails to conform to this Goal and Action.	This management decision from the Ely RMP is general guidance to Ely BLM staff and managers for implementation and management of land uses. The Ely ID team kept this management direction in mind when devising mitigation for this project. However, this general direction does not limit or constrain BLM's mandate to respond to ROW applications. Please refer to section 3.20 for a complete discussion of the monitoring, management and mitigation associated with this project.

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37015-133	VEG-1: Emphasize treatment areas that have the best potential to maintain desired conditions or respond and return to the desired range of conditions and mosaic upon the landscape, using all available current or future tools and techniques. VEG-2: Develop specific management objectives through the watershed analysis process, incorporating direction from activity plans (see Management Actions WL-8 and WL-15). VEG-4: Design management strategies to achieve plant composition within the desired range of conditions for vegetation communities, and emphasize plant and animal community health at the mid scale (watershed level). VEG-6: Emphasize the conservation and maintenance of healthy, resilient, and functional vegetation communities before restoration of other sites. VEG-14: (salt desert shrub) Implement actions to attain the desired vegetation states shown in Table 6. VEG-15: Intensively manage areas currently in the herbaceous state to facilitate conversion to the shrub state. VEG-16: Sagebrush (basin big sagebrush, Wyoming big sagebrush, mountain big sagebrush, and black sagebrush). Implement actions to attain the desired vegetation states shown in Table 7. VEG-17: Integrate treatments to: 1. Establish and maintain the desired herbaceous state or early shrub state where sagebrush is present along with a robust understory of perennial species. 2. Prioritize treatments toward restoration of sagebrush communities on areas with deeper soils and higher precipitation. VEG-18: Manage native range to meet the requirements of wildlife species. Management will focus on maintaining or establishing diversity, mosaics, and connectivity of sagebrush between geographic areas at the mid and fine scales. Project Conformity: Although the DEIS failed to assess the project's conformity with any of these policies, it is clear that the project groundwater pumping would result in massive changes in vegetation composition, likely resulting in non-compliance with all of these policies. We have attempted to conduct a more detailed conformity assessment of vegetation impacts, however this is made difficult because of the DEIS's inappropriate use of the ReGap database instead of the BLM RMP's Landfire database. The DEIS bases its impact assessment on vegetation types and uses the Southwest ReGAP model to do so (the problems with that are described above), while the RMP objectives are articulated based on individual (indicator) plant species and uses the more sophisticated (and appropriate) LANDFIRE model for its analysis. The choice to use an different (and problematic) land cover model for the DEIS precludes a full comparison of the DEIS with the Ely (and likely other districts') RMPs. The DEIS must conduct this assessment for full disclosure under NEP A.	The Final EIS utilized multiple data sources to classify impacts to vegetation including Southwest Regional Gap Analysis Program (SWReGAP). Both SWReGAP and LANDFIRE are provided at the same resolution (30x30 meter) and so neither dataset provides a particular advantage over the other for the purposes of the EIS analysis, and neither is inappropriate. A more detailed explanation may be found in response VEG-4.
37015-134	VEG-23: Promote vegetation structure and diversity that is appropriate and effective in controlling erosion, stabilizing stream banks, healing channel incisions, shading water, filtering sediment, and dissipating energy, in order to provide for stable water flow and bank stability. VEG-24: Focus management actions on uses and activities that allow for the protection, maintenance, and restoration of riparian habitat. Project Conformity: Although the DEIS failed to assess the project's conformity with any of these policies, the DEIS shows that the project groundwater pumping would result in massive changes in riparian and wetlands vegetation, likely resulting in non-compliance with policies Veg 23 and 24.	These two management decisions from the Ely RMP were developed to provide guidance to Ely BLM staff and managers in the implementation and management of vegetation resources within the Ely District. The Ely ID team kept this management direction in mind when devising mitigation for this project. However, this general direction does not limit or constrain BLM's mandate to respond to ROW applications. These vegetation decisions have been included in Appendix D of the FEIS. Please refer section 3.20 for a complete discussion of the monitoring, management and mitigation associated with this project.
37015-135	The RMP includes 20 specific management actions, none of which have been addressed in the DEIS. Project Conformity: Although the DEIS failed to assess the project's conformity with any of these policies, it shows that the project groundwater pumping would result in massive changes in habitat, likely resulting in non-compliance with some or all of the Wildlife policies. Of specific concern is compliance with management action WL-18: Restore natural water sources (i.e., springs and seeps) to increase water availability through restoration of riparian habitats and proper livestock and wild horse management. The project would destroy many of the natural water sources in the region, making it impossible to restore them.	The intent of the EIS process under NEPA is the disclosure of potential impacts related to a proposed project. The BLM makes land use decisions under FLPMA based on the results of that disclosure. Multiple use under FLPMA does not preclude irreversible or irretrievable impacts to protected species or other elements of the natural or human environment. The BLM is working with the USFWS to address impacts to federally listed species as directed by the Endangered Species Act.
37015-136	The RMP includes 43 specific management actions, none of which have been addressed in the DEIS. Project Conformity: Although the DEIS failed to assess the project's conformity with any of these policies, it shows that the project groundwater pumping would result in massive changes in habitat, likely resulting in non-compliance with some or all of the Wildlife policies. Of specific concern is compliance with management actions addressing wetlands and riparian areas. The project would destroy or dewater many of the natural water sources in the region, making it impossible to meet those management actions, goals, and objectives. This issue should be reviewed in detail in the DEIS.	The intent of the EIS process under NEPA is the disclosure of potential impacts related to a proposed project. The BLM makes land use decisions under FLPMA based on the results of that disclosure. Multiple use under FLPMA does not preclude irreversible or irretrievable impacts to protected species or other elements of the natural or human environment. The BLM is working with the USFWS to address impacts to federally listed species as directed by the Endangered Species Act.
37015-137	The RMP specifies policies for other resources including cultural resources and visual resources. The Project's conformance with these goals and policies should be assessed in the DEIS.	Under the RMP, the protection of and consideration of impacts on cultural resources are governed by federal and state mandates, all of which apply to the NEPA analysis, and are described in the DEIS.

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37015-138	Combining information in Section 1.6 with data included in Section 3.18, Socioeconomics and Environmental Justice, indicates that the proposed project may not be needed at all. Section 1.6.1 identifies a need for the project water based on outdated and incorrect 2008 population and water demand forecasts. The projected water demand in this section is erroneous and outdated; it has not been updated with current demographic information, despite the fact that this information is included in the EIS Section 3.18, Socioeconomics. SNWA's determination that the project was needed seems to be supported based on outdated growth projections from 2008, at the peak of Las Vegas' housing boom. As stated on p. 3.18-9 of the DEIS, "Pre-recession economic and demographic projections for Clark County, prepared by UNLV-CBER in 2008, underlie SNWA's 2009 Water Resource Plan. Those projections portrayed unabated, but slowing long-term growth, yielding a population of 3.45 million residents by 2030." The DEIS reports that, one year later UNL V - CBER's 2009 projections reflect a more conservative perspective, calling for a population of3,126,000 in 2030, which is 10 percent lower than the previous projections." (DEIS p. 3.8-19) One year later, the Nevada State Demographer issued a report showing even lower projections, rising from a 20 l 0 total of about 1.9 million to between 1.98 and 3.06 million people by 2030. (DEIS p. 3.8-19) The lower number reflects a slow recovery from the current economic conditions. The DEIS (p. 1-13) states that SNW A proposed to reduce per capita water demand by 20% by 2035. That conservation reduction would allow for a 20 percent increase in population by 2035 (up to nearly 2.4 million) with no additional water demand. Given that SNW A had previously projected adequate (non-drought) supplies through 2020, it is likely that there will be no need for the project by 2035.	Additional information on SNWA's justification for the project has been added to Chapter 1.
37015-139	As described in Section 1.2 of the DEIS, the BLM's is to consider the applicant's request for use of federal land managed by the BLM for construction and operation of the groundwater conveyance system. However, a pipeline connected to no water supply is the equivalent of a freeway with no onramps. The EIS acknowledges that BLM will be requested by SNW A to grant permission for wellfield development on BLM lands after adjudication of water rights has been completed by the Nevada State Engineer. Those wells will be the sole reason that the pipeline is proposed - as described in the EIS, they will provide most, if not all, of the water to the pipeline. SNW A would have no reason to propose a pipeline if it could not develop the wellfields. Therefore the wells and the pipeline are two parts of a single project. Yet the BLM is not considering any approval of a "program" including the pipeline and associated wells and groundwater mining. Instead, it is considering approval only a portion of the program - one with no independent utility. In addition, the Program itself is not anticipated or included in the BLM's applicable Resource Management Plans.	Please refer to standard resource responses Gen-2 for information on this topic. Approval of the ROW for the main pipeline and related facilities will not predispose later consideration of the wellfield development and related future facilities. As explained in Section 1.3.3, BLM will address future site-specifc components in subsequent tiered NEPA documents.
37015-140	From a planning perspective, the BLM should not consider the pipeline absent knowledge of the pending application for associated groundwater pumping. As shown in the EIS, most of the longterm, severe impacts of the Project would result from the groundwater pumping, not from construction of the pipeline. Therefore the BLM should be considering the applications for the pipeline and wells at the same time. Approval of the pipeline at this time could inappropriately predispose the BLM to approval of the wellfields.	Please see Standard Resource Response Gen-2 for a discussion of programmatic analysis and future tiering under NEPA.
37015-141	As detailed above, the subject DEIS fails to meet even the most basic NEPA requirements of full disclosure of potential environmental impacts and investigation of the feasibility of mitigation of those impacts.	Please see Chapter 3 for a full disclosure of project impacts related to surface disturbance from the ROW and ancilllary facilities upon which the request for this NEPA analysis is based. Also in that chapter is a programmatic assessment of future facilities and effects of groundwater drawdown. See standard resource response Gen-2 for additoinal information on programmatic analyses and tiering.
37015-142	Many of the mitigation measures that are identified for groundwater pumping fail to mitigate anything at all.	Please refer to standard resource responses MM-1 for information on this topic.
37015-143	The range of alternatives included in the EIS fails to include any alternatives that would be sustainable and the no-action alternative is improperly construed.	Please refer to standard resource responses Gen-3 for information on this topic.
37015-144	The Project's growth inducement effects are not adequately assessed.	Section 3.18 (socioeconomics and environmental justice) contains a discussion of the social and economic effects of the project. See standard resource response SocEcon-2.
37015-145	As detailed above, the impact assessment is fatally flawed in relying on an arbitrary minimum 10- foot groundwater drawdown before it even starts to consider impacts, despite substantial evidence that substantive impacts would occur at lesser drawdown levels. Similarly, the DEIS uses a biological resources database the documentation for which expressly states that it is not appropriate for this sort of use. The EIS contains other substantial errors and omissions, including major errors in the groundwater model, use of inappropriate databases for biological impact assessments, omission of a substantive water quality analysis, omission of a health risk analysis, failure to adequately address fisheries impacts, and failure to appropriately assess air quality impacts. Decisions based on this information would be arbitrary or capricious.9	Thank you for your comment. Please see Standard Resource Response WR-1 for a discussion of the 10-ft drawdown. The BLM believes that the impact assessment for the resources referenced in your comment used the best available information and the associated impact analysis is complete and robust.

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37015-146	Finally, the DEIS fails to analyze the Project's conformance with the BLM's own RMPs, and appears to be impermissible in light of its conflicts with the BLM's RMPs. Finally, as discussed later in this letter, the BLM is required to comply with, and fully implement, its Resource Management Plans for the Project area. 43 USC § 1732 ("The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 1712 of this title"). The DEIS does not inform the reader as to whether BLM considers the project with all of its connected actions and future build-outs to be consistent with the multiple use and sustained yield mandate of BLM's organic legislation, in other words, not only whether this project is consistent with the relevant RMPs but also whether any RMP could allow such a devastating project on our nation's public lands.	Both the BLM Ely and Southern Nevada District RMPs have been reviewed and the BLM has determined that no plan amendments are needed at this time to proceed with SNWA's request for a ROW grant. This initial tier of programmatic analysis related to future facilities and potential groundwater drawdown will set the stage for subsequent analysis in future tiers. Future NEPA will determine the applicability of the RMPs in effect at that time.
37015-147	The first statement above on rooting depths of greasewood to 50 ft is not supported by any references, whereas the references cited in the second statement concern groundwater depths between 10 and 45 ft. Many estimates of rooting depths of desert phreatophytes are based on a combination of known groundwater depths and plant moisture stress. On the other hand, in an extensive USGS study, Robinson (1958) estimated rooting depths of many phreatophytes (see Table 1) including about 20 m (ca. 65 ft) for greasewood, which supports the statement above. However, many other phreatophytes that occur in the Great Basin area have rooting depths considerably shallower (see Table 1). This suggests that the "50 ft. assumption" does not relate to most of the phreatophytes in the areas of concern, other than to suggest that at that depth, all, not "most", phreatophytes would no longer be supported by groundwater.	It is useful in this programmatic analysis to assess broad characterizations of potential impacts over a wide area and period of time with the expectation that assessments will be refined in subsequent NEPA analysis. The BLM recognizes that the collection of additional hydrologic and biologic information, on a local scale, would be necessary to improve the ability to predict drawdown impacts. However, obtaining the detailed site-specific data necessary to develop local-scale models is not considered necessary for the purpose of this programmatic analysis; particularly since details regarding the number, locations, and pumping rates for wells is not yet available. The 50-foot depth is a statistic that is being employed to assess impacts over the project area as a whole. While the literature suggests maximum phreatophyte rooting depths that are both deeper and shallower than 50 feet, the BLM believes that 50 feet is a reasonable assumption for analysis, given both the variability expressed in the literature and the purposes of this programmatic analysis. Subsequent NEPA will perform a more detailed analysis of the effects of groundwater drawdown on vegetation communities.
37015-148	Also, in Patten et al. (2008), which included studies of spring areas in Spring Valley, woody plant cover was measured relative to groundwater (more accurately "water table") depth. Although their monitoring wells seldom went deeper than 4 meters, many woody species did not occur (based on cover measurements) at locations with the water table much deeper than 2 to 3 meters (see Figures I and 2).	It is useful in this programmatic analysis to assess broad characterizations of potential impacts over a wide area and period of time with the expectation that assessments will be refined in subsequent NEPA analysis. The BLM recognizes that the collection of additional hydrologic and biologic information, on a local scale, would be necessary to improve the ability to predict drawdown impacts. However, obtaining the detailed site-specific data necessary to develop local-scale models is not considered necessary for the purpose of this programmatic analysis; particularly since details regarding the number, locations, and pumping rates for wells is not yet available. The study by Patten et al. (2008) specifically examined springs and spring-associated plant communities in the Great Basin and Mojave Deserts. Springs and spring-associated plant communities are not a direct corollary with the Wetland/Meadow ET units used for analysis in this EIS, and a direct comparison between the two is problematic, at best.
37015-149	The data for woody plants from the study by Patten et al. (2008) in Spring Valley (e.g., Figures 1 and 2) refute the assumption that "an index draw down contour of 10 feet (i.e., 3 m) is assumed to be a reasonable estimate of the point at which long-term changes in plant community vigor and composition would begin to appear" (3.5, p. 39). The woody plant data are supported by data for cover of herbaceous plants from the same study which show that few herbaceous plants, including those from most wetland categories (wetland to upland) occur on sites where the water table (groundwater levels on the graphs) is below 2 meters. If these herbaceous plants grow primarily on sites where the water table is less than 2 meters below the surface, what might happen if the water table dropped well below this? Patten et al. (2008) also developed linear models describing how plant communities in the spring areas of Spring Valley would change with declining water tables. They state: "Using a linear model on relationships between herbaceous community wetland indicator scores (WIS) and water table levels at Spring Valley (Modell), we can project how the herbaceous plant communities might change in composition. Modell: Herb WIS (Spring Valley: May- June)= 0.786 x 1:085 Water Table Depth (August) [n=l7; R2= 0:427; p 0:01]. Using the above model, we find that the WIS will increase by about 1 unit with each meter of decline in the water table. For example, a wetland/upland transition zone herbaceous community with a WIS of2 at the Spring Valley study springs includes species of Carex, Juncus, Puccinella, Sporobulus, and Distich/is. Following a 2-m water level decline, this community might shift to one with a WIS of 4, equivalent to a phreatophytic-upland community vegetated by species such as those of Descurainia, Distich/is, and Puccinellia" (Patten et al. 2008:405).	It is useful in this programmatic analysis to assess broad characterizations of potential impacts over a wide area and period of time with the expectation that assessments will be refined in subsequent NEPA analysis. The BLM recognizes that the collection of additional hydrologic and biologic information, on a local scale, would be necessary to improve the ability to predict drawdown impacts. However, obtaining the detailed site-specific data necessary to develop local-scale models is not considered necessary for the purpose of this programmatic analysis; particularly since details regarding the number, locations, and pumping rates for wells is not yet available. The study by Patten et al. (2008) specifically examined springs and spring-associated plant communities in the Great Basin and Mojave Deserts. Springs and spring-associated plant communities are not a direct corollary with the Wetland/Meadow ET units used for analysis in this EIS, and a direct comparison between the two is problematic, at best. For a further discussion specific to the regional scale numerical groundwater flow model and model simulated 10-foot drawdown contour, please see Standard Resource Response WR-1.
37015-150	I would suggest that most of the changes suggested in Table 3.5-14 would occur when drawdown levels from pumping are considerably less than the stated 10ft, and thus changes that are suggested to occur "after" a 10ft drawdown will occur during the drawdown when the water table is dropping and is shallower than 10ft. How this would affect the overall cover of herbaceous and woody plants, as well as species composition is only conjecture. In all likelihood, herbaceous species dependent on a shallow water table would drop out and be replaced by species tolerant of drought and dependent on ambient precipitation conditions. There would be a likely shift in woody species composition from phreatophytic species to nonphreatophytes.	Thank you for your comment. It is useful in this programmatic analysis to assess broad characterizations of potential impacts over a wide area and period of time with the expectation that assessments will be refined in subsequent NEPA analysis. The BLM recognizes that the collection of additional hydrologic and biologic information, on a local scale, would be necessary to improve the ability to predict drawdown impacts. However, obtaining the detailed site-specific data necessary to develop local-scale models is not considered necessary for the purpose of this programmatic analysis; particularly since details regarding the number, locations, and pumping rates for wells is not yet available. Subsequent NEPA will perform a more detailed analysis of the effects of groundwater drawdown on vegetation communities.
37015-151	DEIS recognizes the primary importance of the ambient effects of air pollutants, but does not include methodology or quantitative modeling to determine project-induced ambient pollutant concentrations at sensitive receptors in the project area, nor does it assess the severity of such concentrations in conjunction with existing or future ambient pollutant background levels and visibility conditions.	Please see common responses Air-7 and Air-9.

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37015-152	The DEIS only considers pollutant emissions from project construction equipment/activity, project operation and soil dehydration in the ground water basins. But the project will have a major indirect effect on residential, commercial, industrial and transportation pollutant emissions in Clark County urban areas by providing a completely new source of water to support and promote continued population and economic growth there. Such emissions would not exist without the expanded water supply and their effects must be estimated and included with direct project effects in the comparison to regional air quality attainment plan goals or federal conformity thresholds.	Please refer to standard resource responses Air-19 for information on this topic.
37015-153	The DEIS does not perform a complete cumulative analysis. Only direct project sources related to the proposed facility's construction and operation are included, not the complete ambient impacts of other non-project pollutant sources in the areas affected by the project emissions, specifically the PM background concentrations in the desert areas, and CO, ozone and PM concentrations produced by existing and future cumulative sources in the Las Vegas and Salt Lake City areas.	Please see common responses Air-20 and Air-21.
37015-154	the DEIS does not propose methodology or use any quantitative modeling to determine projectinduced ambient pollutant concentrations at sensitive receptors in the project area, in conjunction with existing or future ambient pollutant background levels. The DEIS only gives emission estimates for an incomplete set of project air pollutant sources (i.e., facility construction equipment/vehicle exhaust, fugitive dust from facility construction activities, exhaust and fugitive dust from facility maintenance after construction, and increased dust emissions from soil dehydration in the groundwater extraction areas). The project's most important air quality impact (i.e., the potential effects it would have on ambient air quality in and regional attainment status of Clark County and the Las Vegas urban area through growth promotion by the completely new water supply it would introduce) is not mentioned or analyzed at all in the subsequent Environmental Consequences, Climate Change Effects or Cumulative Impacts subsections.	Please refer to standard resource responses Air-9, Air-15 and Air-19 for information on this topic.
37015-155	All monitoring data tables should explicitly include the AAQS and show days/years where such standards are exceeded and how often. These changes to Table 3.1-3 would highlight the PM10 non-attainment status of Clark County, just as Table 3.1-4 (Tooele, Utah) shows the daily exceedances of the PM25 standard. Table 3.1-4 should also be modified to show additional comparisons to the current annual PM25 standard.	Thank you for your comment. Please see Standard Resource Response MM-1.
37015-156	while the DEIS includes Table 3.1-5 presenting ozone monitoring data from GBNP, which is a sparsely populated ozone attainment area, there is no table of ozone monitoring data with standard comparisons for Clark County, which is a densely-populated, ozone nonattainment area. A table of Clark County monitoring data with standard comparisons should be provided. Also, the DEIS mentions on the same page that a lowering of the ozone standard is being considered. Table 3.1-5 and the new Clark County ozone data table should include explicit comparisons of monitored ozone levels to both the current and proposed standards.	Thank you for your comment. Please see Standard Resource Response MM-1.
37015-157	The Prevention of Significant Deterioration (PSD) subsection (page 3.1-5) states: "In addition to the designations relative to attainment of conformance with the NAAQS, the CAA requires the USEPA to place selected areas within the U.S. into one of three categories, which are designed to limit the deterioration of air quality when it is better than the NAAQS ... The GBNP is a Class II area ... project [conformance and PSD} impacts to the GBNP are analyzed due to the proximity of the park to the project area. 11 This states explicitly that conformity and PSD impacts related to the GBNP will be analyzed in the DEIS's Environmental Consequences subsection. But there is no such analysis. There are just unsupported, conclusory statements that emissions from construction equipment are "not expected to cause or contribute to exceedances of any AAQS [in the GBNP or anywhere else in the project area]" (see page 3.1-22), or that construction fugitive dust "are expected to be short term (5 years or less)" (see page 3.1-24) or that permanent maintenance equipment/activity emissions would not have any substantial ambient effect with no reason specified.	As the GBNP is not located in a nonattainment or maintenance area a conformity analysis is not required for this area. Regarding the PSD analysis, please see standard resource response Air-9.
37015-158	The Regional Air Quality Related Values subsection (page 3.1-5) states: "The visibility at the GBNP is one of the best in the nation." This implies that visibility impacts related to the GBNP will be analyzed in the DEIS's subsequent Environmental Consequences subsection. But there is no such analysis. There are just unsupported, conclusory statements that emissions from construction equipment (see page 3.1-16), fugitive dust (see page 3.1-18) or maintenance equipment/activity emissions (page 3.1-20)] are "not expected to impair visibility conditions at GBNP." Further comment on this issue below.	Please see common response Air-5.

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37015-159	The Climate Change Trends subsection (page 3.1-10) states: "It is important to note that projected [climate] changes are likely to occur over several decades to a century. Therefore, many of the projected changes associated with climate change described below may not be measurably discernable within the reasonably foreseeable future." Then on page 3.1-11: "Temperatures in North America are projected to increase ... Global climate models predict that temperatures in the western U.S. will increase between 2.5 and 6 oc, relative to pre-1900 levels, over the next 100 years." And finally on page 3.1-12: "Generally, global climate models predict that arid regions of the world will experience decreased precipitation levels and the Southwest is no exception ... this change is predicted to occur sometime mid-21st century." It is unclear what is meant by the term "reasonably foreseeable future" in the first quote above and how it relates to either the 11-year project construction schedule or the 75- to 200-year horizons over which the project is expected to supply water to the urban areas of southern Nevada. The DEIS already notes that " ... decadal [temperature] means since the late 1990s are higher than any other decadal mean on record" (page 3.1-10), indicating that important climate change parameters have already been measured in the project area. And the periods "over the next 100 years" and "sometime mid-21st century" both fall within the 75 to 200 project operational lifetime.	While the project's potential impacts can be estimated with respect to specific timeframes, the variability and uncertainty of climate change prevent an assessment of specific effects during specific timeframes.
37015-160	Further, the Climate Change Effects subsection (page 3.1-49) notes: "Climate change already appears to be influencing both natural and managed ecosystems of the American Southwest ... models indicate the likelihood of the Southwest being a climate change "hotspot" in the coming decades ... Projections suggest continued strong warming in the region, with significant increases in temperature ... and decreases in precipitation ... " Thus, this last quote appears to contradict the first quote above. The DEIS's contradictory statements about the reality of climate change should be reconciled in favor of acknowledging that climate change effects will very likely be manifest in the project area over the DEIS's analysis timeframe.	Please refer to standard resource response Air-17 for information on this topic.
37015-161	The first three bullets focus exclusively on air pollutants emitted or generated during project construction or operation. While emission estimates are important components of environmental air quality analyses, they are only a first step. The emissions estimates must then be used as input to an appropriate dispersion model or screening methodology to estimate pollutant ambient concentrations at local and regional sensitive receptors. It is the exceedance of AAQS or health risk thresholds at these receptors that determine air quality impact significance. An appropriate dispersion model or screening procedure for each emission source must be included in the DEIS Methodology for Analysis subsection (page 3.1-14) and then implemented in the analysis together with what is known about the geographic distribution of sensitive receptors (i.e., residential areas, schools, hospitals, etc.) in the pipeline/facilities ROW. Without this any conclusions in the impact analysis based solely on emission estimates cannot be substantiated.	Please refer to standard resource response Air-9 for information on this topic.
37015-162	The fourth bullet recognizes visibility impairment as a legitimate air quality issue. But again the degree of impairment depends on the ambient concentration of particulate matter at visibility-sensitive receptors. This cannot be determined from particulate emissions estimates alone. The DEIS needs to proposed a model or screening methodology to evaluate the potential for visibility impairment in the GBNP. Without this, subsequent statements about potential visibility impairment in the impact analysis cannot be substantiated.	Please refer to standard resource responses Air-5 and Air-9 for information on this topic.
37015-163	The last bullet recognizes conformity requirements in nonattainment areas as a legitimate air quality issue. The DEIS emissions estimates that determine project conformity in Clark County include only construction and maintenance equipment sources in the relatively small portion of the pipeline ROW in Clark County. But the project will have a major indirect effect on residential, commercial, industrial and transportation source emissions in Clark County by providing a completely new source of water to support and promote continued population and economic growth there. It is legitimate that emissions from such indirect sources that would not exist without the expanded water supply and should be estimated and included with direct project emissions in the comparison against the conformity threshold.	Please see common response Air-19.
37015-164	Using SCAQMD emission factors for construction equipment and motor vehicles for similar sources in Nevada is very likely to underestimate their emissions because of the higher level of emission controls required in the South Coast air basin. It would be better to use the CARB OFFROAD model for construction equipment and EMFAC2007 model for passenger vehicles and run them to obtain emission factors characteristic of the desert areas of California (either the Mohave area or portions of California east of the Sierra Nevada in the Great Basin) and use them to estimate project source emissions.	The CARB Offroad model and EMFAC 2007 model are the sources of information for the SCAQMD emission factors. These models and the resulting emission factors are used to estimate the construction and mobile source emissions for the FEIS.
37015-165	The fact that construction at any location would last 5 years or less is not relevant to concluding that AAQS violations would not be have substantial impacts. Any violation of AAQS is important if sensitive receptors (and this could be interpreted to include the project workers) could be exposed to facility construction or maintenance emissions for the exposure time period included in the AAQS. Also, mere compliance with air pollutant source permit conditions or mitigation measures proposed in the DEIS would not automatically guarantee that AAQS or visibility standards would not be exceeded.	Please refer to standard resource response Air-9 for information on this topic.

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37015-166	There needs to be modeling done or regulatory agency screening procedures implemented to determine the likelihood of AAQS or visibility standard exceedances at identified sensitive receptors. The DEIS has already calculated the emissions associated with the various project construction and operational sources. And the pipeline ROW and other facility locations are known, as are the presence/absence of sensitive uses in/near those locations. No modeling was done to support conclusions on AAQS or on visibility standards. The DEIS needs to estimate ambient air quality and visibility impacts near the project facility locations, with and without the emission control measures proposed as mitigations in the DEIS.	Please refer to standard resource response Air-9 for information on this topic.
37015-167	"Table 3.1-8 shows the construction emissions for each criteria pollutant, ozone precursors, and greenhouse gases that are estimated to result for the Proposed Action and Alternatives A through C. II There should be a similar tables showing the results of a modeling or screening analysis of the ambient concentrations at receptors at the edge of the ROW for all project construction types (pipeline, power line, facilities, etc.).	The emissions from construction equipment are included in the analysis to disclose the potential emissions from these sources. Construction equipment is not required to be included in a modeling demonstration due to the short-term and transient nature of the emissions sources.
37015-168	The DEIS makes similar conclusory statements for other project pollutant source types that are unsupported by any analysis, specifically the Fugitive Dust from Construction and Facility Maintenance Activities subsection (page 3.1-18) states: "Emissions from construction activities would be restricted to the short-term construction period along the pipeline and power line routes or near the proposed locations of ancillary facilities" "At these low levels, fugitive dust emissions from maintenance vehicles are not expected to impair visibility conditions at the GBNP. II "Application of the [Alternative Control Measures] ACMs to develop a Dust Control Plan and obtain required air permits should minimize the potential impacts to local air quality and ensure protection of applicable AAQS." Again, short-term emissions are no guarantee that there would not be substantial AAQS or visibility standard violations affecting local sensitive receptors or GBNP visibility. Also, mere compliance with ACMs, Dust Control Plans or permit conditions would not automatically guarantee that AAQS or visibility standards would not be exceeded.	Please see common response Air-9.
37015-169	And there is the further admission (page 3.1-19) that: "Residual impacts include: "Implementation of the federal and state requirements, ACMs, and proposed mitigation measures should effectively mitigate fugitive dust impacts to air quality ... In close proximity to construction sites and the ROW, there may be elevated concentrations of PM relative to current background conditions; however, any elevated concentrations are expected to be limited to areas in close proximity to construction and the ROW, be short-term in duration, and below applicable AAQS." Again, this is a completely unsupported statement that with the implementation of DEIR-identified federal and state requirements, ACMs, and proposed mitigation measures there would be no consequential violations of AAQS. Implementation of such generic regulatory, permit or mitigation measures would not automatically guarantee attainment of AAQS or visibility standards. This need to be demonstrated by modeling or carrying through with appropriate screening procedures.	Please see common response Air-9.
37015-170	And finally for sources of Wind Blown Dust from Disturbed Surfaces, the subsection states (page 3.1-19): "Windblown dust impacts would diminish once construction activities end and after disturbed areas are reclaimed." "Windblown dust emissions from disturbed surfaces are not expected to impair visibility conditions at the GBNP." "Application of the ACMs to develop a Dust Control Plan and obtain required air permits should minimize the potential impacts to local air quality and ensure protection of applicable AAQS." "Implementation of the federal and state requirements and ACMs should effectively mitigate windblown dust ... any elevated concentrations are expected to be limited to areas in close proximity to the ROW, be short-term in duration, and below applicable AAQS." Again, short-term emissions are no guarantee that there would not be substantial AAQS or visibility standard violations affecting local sensitive receptors or GBNP visibility. Also, mere compliance with ACMs, Oust Control Plans or permit conditions would not automatically guarantee that AAQS or visibility standards would not be exceeded.	Please see common response Air-9.

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37015-171	The Conformity Review for Non-attainment Areas subsection (page 3.1-21) states: "Only tailpipe emissions from construction equipment emit CO ... based on the proposed length of pipeline {8.8 miles) and power line (0) to be constructed in Las Vegas Valley ... 15 tons per year of CO in the nonattainment area, which is well below the 100 tons per year conformity threshold." "Only tailpipe emissions from construction equipment emit ozone precursors ... the proposed length of pipeline {28.1 miles) and power line (14.6 miles) ... 28.1 miles of pipeline and 14.6 miles of power line will take Jess than 150 days ... 8 tons per year of VOC and 63 tons per year of NOX in the nonattainment area, well below the 100 tons per year conformity threshold." "PM10 project emissions in the nonattainment area ... including tailpipe emissions, fugitive dust, and windblown dust. The Nevada PM10 nonattainment area is limited to HB 212, Las Vegas Valley ... altogether the maximum annual PM10 emission rate within the nonattainment area due to ROW activities would be 40 tons per year ... less than the conformity threshold of 70 tons per year." The emission estimates upon which the conformity determination are based only on tailpipe emissions, fugitive dust, and windblown dust from project construction and operational equipment/activities within the non-attainment portions of the entire project area. But the project will provide water from a completely untapped resource to promote growth and consequent air pollutant emissions from new sources in the las Vegas air basin that the water supply would support and which would be impossible without it. The DEIS needs to look at the regional air quality attainment plans for southern Nevada with their emission projections contingent on current population/employment growth estimates (which assumed water supply only from the Colorado River), and redo the emissions projections with the project groundwater supply. These additional emissions should be counted toward the conformity threshold. And they should be included with the other long-term residual emissions shown in Table 3.1-9.	Please see common response Air-22.
37015-172	As for the analysis shown for Alternative D (page 3.1-24}, Alternative E (page 3.1-26} and Alignment Options 1-4 {page 3.1-29}, these have the same methodological and analytic deficiencies noted above for the Proposed Action and Alternatives A through C.	The emissions from construction equipment are included in the analysis to disclose the potential emissions from these sources. Construction equipment is not required to be included in a modeling demonstration due to the short-term and transient nature of the emissions sources.
37015-173	In the Comparison of Alternatives subsection {page 3.1-29), Tables 3.1-12, 3.1-13 and 3.1-14 give only comparisons among the Alternatives of direct emissions from project construction and maintenance equipment/activity sources. They should also include the residual indirect emissions from sources supported by provision of ground water to the las Vegas urban areas. And there should be a similar series of tables that give the results of the pollutant ambient concentration modeling/screening and whether this would threaten any receptors in any of the pipeline ROW (especially in the portion nearest las Vegas urban areas). Finally, there should be a presentation of the findings of a visibility impacts analysis for project effects in the GBNP.	Please refer to standard resource responses Air-9 and Air-22 for information on this topic.
37015-174	The Groundwater Development and Groundwater Pumping subsection (page 3.1-33) states: "It is predicted from model simulations that pumping drawdown of 10-feet and greater would potentially lead to changes in vegetation that could increase windblown dust emissions ... At these levels, it is possible that windblown dust emissions from groundwater drawdown could impair visibility conditions at the GBNP. The extent of possible visibility impairment is highly uncertain." This is not much of a visibility analysis. There needs to be some credible effort by the DEIS to provide one. But even without a visibility analysis, the DEIS recommends the following mitigation measure (GW-AQ-3) to monitor, but not necessarily remediate, visibility impacts from soil dehydration: "GW-AQ-3: Monitoring, Mitigation, and Management Plan for Air Quality. SNWA will develop an air monitoring plan approved by the BLM, which will detail the siting and operation of at least three collocated PM10 and PM2.5 air monitoring stations ... It is anticipated that the Plan would be effective in identifying early warning of potentially undesirable impacts to air resources and provide a substantial amount of time and flexibility to implement management measures and gage their effects. However, since groundwater development presumes some level of change to air quality and visibility, not all impacts would be avoided by this mitigation measure" This mitigation measure places no constraints on the ability of the project to draw-down ground water to the detriment of visibility in the GBNP. It could be improved by setting a limit on visibility degradation before pumping would be required to stop.	Thank you for your comment. Please see Standard Resource Response MM-1.

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ID	Comment	Response
37015-175	The Climate Change Effects subsection (begin page 3.1-49) makes the following statements: "Table 3.1-24 shows the estimated annual greenhouse gas emissions for each project alternative. The estimated maximum annual greenhouse gas emissions during the ROW construction and maintenance activities for all alternatives are anticipated to be Jess than 25,000 metric tons (tonnes) a year in terms of CDE, while indirect emissions of greenhouse gases from power generation required for groundwater pumping could be as high as 327,000 metric tons of CDE, which is less than 0.006 of 1 percent of annual U.S. emissions and Jess than 0.6 percent of Nevada emissions. The greenhouse gas emissions would be highest for the Proposed Action and lowest for Alternative D." Thus, the DEIS explicitly states that the direct construction and maintenance emissions are less than the 25K advisory greenhouse gas threshold, but not that the indirect emissions from pumping exceed 25K with or without the 40% decrease expected from inclusion of hydroturbines as a mitigation. This is another instance where the DEIS explicitly identifies a case where a threshold is not exceeded, but does not identify a related case where the same threshold is exceeded. And Table 3.1-24 does not include estimated of the additional CDE emissions from growth in las Vegas that would be promoted by the increased ground water supply. This would probably far exceed the increase in emissions from ground water pumping.	Please see common response Air-19.
37015-176	The Climate Change Effects to Air Resources subsection (page 3.1-50) states: "Climate change is not shown to have a direct effect on any criteria pollutants other than ozone. It has been found that concentrations of ground level ozone are likely to increase due to increasing temperatures (Wise 2009). This indicates that areas currently designated as "maintenance" status for ozone are likely to have added difficulty maintaining levels below the ozone standard." Finally the DEIS mentions a project effect which would worsen impacts on ambient pollutant levels (i.e., ozone) outside the area containing the pipeline ROW and other project facilities. This could also be true on a much larger scale and more severe level if the impact of emissions on regional attainment status from growth in the Las Vegas area promoted by the new water supply were considered as part of the DEIS air quality analysis.	Please see common responses Air-15 and Air-22.
37015-177	The Cumulative Impacts subsection (page 3.1-57) states: "Methodology for Analysis "For the estimation of air quality related impacts, the methodology depends on the activity (construction, pumping, etc.) and the type of air impacts (criteria emissions, greenhouse gases, etc.). The activity/air impact combinations are grouped based on the methodology used to estimate impacts." ' The different methodologies for developing air impacts are grouped into the following categories: • "Groundwater Development Area Construction and Operational Maintenance o Tailpipe emissions o Fugitive dust o Greenhouse gases • "Groundwater Pumping o Windblown dust from soils exposed as a result of groundwater pumping o Windblown dust impacts to Utah" This is not a complete cumulative analysis. These are all project sources. The DEIS needs to consider the ambient impacts of other non-project pollutant sources in the areas affected by the project emissions. This should include existing PM background concentrations in the desert areas, and CO, ozone and PM concentrations produced by existing sources in the Las Vegas and Salt Lake City areas.	Please see common responses Air-22.
37015-178	The Cumulative Effects subsection (page 3.1-60) states: • "Current air quality conditions, as presented in Section 3.1.1.1, are not expected to change appreciably due to ROW and groundwater field development construction and maintenance activities." • "It is predicted from model· simulations that pumping drawdown of 10-feet and greater would potentially lead to changes in vegetation that could increase windblown dust emissions ... At these • "It is predicted from model simulations that pumping drawdown of 10-feet and greater would potentially lead to changes in vegetation that could increase windblown dust emissions ... At these levels, it is possible that windblown dust emissions from groundwater drawdown could Impair visibility conditions at the GBNP. The extent of possible visibility impairment is highly uncertain." • Only a very small fraction of wind erosion emissions from the cumulative project area is expected to be transported into Salt Lake County, Utah ... " These statements are unsupported by any emission comparisons or ambient modeling performed in the DEIS.	Please refer to standard resource responses Air-5 and Air-21 for information on this topic.
37015-179	The Alternatives Comparison subsection (page 3.1-69) states: "For comparison purposes, the estimated potential impacts to PM10 and PM2.5 are presented for each alternative in Figures 3.1-7 and 3.1-8, respectively. Figures 3.1-7 and 3.1-8 show the impacts estimated to occur at full build out (FB), after full build out plus 75 years (FB+75), and after full build out plus 200 years {FB+200) for each alternative." These are emission comparisons only of project emission sources. A true cumulative analysis would show how these alternatives would affect cumulative ambient air quality with inclusion of existing and other future sources in the project area.	Please refer to standard resource response Air-9 for information on this topic.
Representing Goshute Tribal Council (PA)		
33907-1	Any information known by the BLM, other federal agencies, or the proponent regarding Tribal natural or cultural resources that may be significant to a Tribe will be fully disclosed to the Tribe immediately, including information obtained in the past and the future.	Stipulation A.2 of the PA states that BLM will submit copies of reports, recommendations of eligibility and effect, and treatment or data recovery plans to consulting Indian tribes as appropriate. This stipulation applies to both Tier 1 activities, and Future Tier activities, and thus provides for the sharing of information into the future. Natural resource information is readily available at BLM district offices.

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ID	Comment	Response
33907-2	no consultation may be said to occur without a resolution of the Tribal Council with participation of Tribal attorneys. Non-participation or termination of a Tribe's participation in this agreement will in no way impact or limit the BLM's consultation obligations or trust responsibility in any manner.	Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) ("The agency official shall consult with representatives designated or identified by the tribal government); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior's December 2, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe, not the agency. In light of each tribe's ability to determine who consults, it would be inappropriate for BLM to state in response to this comment that each tribe must convene a quorum of its tribal council and have attorneys and other staff present for tribal consultation meetings. Rather, that determination should be made by individual tribes. In its ongoing consultation with each tribe, BLM will renew its request for each tribe to identify who will consult on the tribe's behalf, and any tribe may specify its consultation person or persons. BLM recognizes that its consultation and trust obligations exist whether a tribe participates in the PA or not. In response to this comment, additional text was added to the PA. Also, the PA requires BLM to continue consultation with tribes regarding cultural resources and historic properties, regardless of whether the tribe signed the PA. Other Stipulations in the PA also recognize and incorporate BLM's ongoing consultation responsibility, irrespective of whether a tribe signed the PA.
33907-3	Tribal cultural resources personnel shall have equal and full access and participation with federal agency staff and other personnel, and SNWA will be responsible for funding, supporting, and assisting Tribal cultural resources personnel for their expenses and work.	ACHP's section 106 regulations do not provide a mandatory funding mechanism for tribal cultural resource personnel. BLM's policy regarding compensation to Native Americans for their participation in the BLM's administrative process is: "The BLM does not compensate individuals or organizations – including Native American individuals, Indian tribes, Indian communities, and Indian organizations – for contributing information or comments as input into the BLM's administrative process." BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1.
33907-4	however, no approvals related to the proposed project will be granted until the Tribes reserved water rights are quantified and legally recognized.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.
33907-5	The BLM and other federal agencies will assist the Tribes with funding and staff participation to quantify and obtain a legal recognition of the affected Tribe's reserved water rights, prior to any construction of the proposed groundwater project. The federal agencies and proponent should assist the Tribes in construction of necessary infrastructure to develop and utilize their water rights prior to any construction of the proposed project.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.
33907-6	however, the signatories should not enter the agreement until the affected Tribes approve the terms	For the development of a PA, the BLM is required to consult with tribes. 36 C.F.R. § 800.14(f). The regulations do not provide for tribal approval of the terms of the PA. By regulation, the PA takes effect when the ACHP, the SHPO, and the agency(ies) execute the agreement. Id. § 800.14(b)(2)(iii).
33907-7	The BLM and the BIA will respect Tribal requests to renegotiate the previously-entered stipulations regarding impacts to Tribal resources by the proposed SNWA groundwater project.	The stipulated agreements were not designed to address historic properties or cultural resources as required by the NHPA. The PA serves that purpose. The PA governs the identification and evaluation of cultural resources and historic properties as required by the National Historic Preservation Act. Thus, adding a provision mandating the renegotiation of stipulated agreements, which are unrelated to historic properties, would be outside the scope of a PA. However, the executive committee who oversees the implementation of the stipulated agreements have been provided a copy of this comment.
33907-8	Any contacts with the Tribes by SNWA, any personnel working for SNWA, and the BLM should be copied to the Tribal Councils and Tribal attorneys assigned to this issue.	Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) ("The agency official shall consult with representatives designated or identified by the tribal government"); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior's December 2, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe, not the agency. Most tribes have identified the tribal chair as this consulting party and have requested that BLM copy correspondence to others such as attorneys and other tribal council members. BLM has complied with this requests.

Comments and Responses - Tribal Government

ID	Comment	Response
33907-9	Data sharing agreements entered into with a Tribe shall require the BLM to fully share cultural information and allow the Tribe to utilize the information as the Tribe deems appropriate to protect Tribal resources.	BLM is willing to disclose information to tribes. BLM is required by several statutes to keep certain information confidential and is required by the section 106 regulations to address concerns over confidentiality of information. ACHP's guidance suggests that "[i]ssues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties." ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. The data sharing agreements between the tribe and BLM are used to protect information from public disclosure.
33907-10	SNWA shall notify BLM and in the case of Tribal cultural resources, the affected Tribes, of the discovery promptly either by written or electronic communication (email or fax), or orally followed by written or electronic confirmation. Upon notification of a discovery, BLM and the affected Tribe shall make an assessment of the discovery's significance and integrity as soon as feasible, and if possible within 72 hours of notification. BLM shall also notify SHPO of the discovery by email, FAX or telephone. The BLM and the affected Tribe may make such assessment, and a determination of appropriate course of action, based upon a concise preliminary description and recommendation for the discovery from a qualified archeologist	The methods of notification suggested in this comment were largely adopted in Stipulation I.1.c.ii. Stipulation I has also been revised to be consistent with the provisions of 36 C.F.R. § 800.13.
33907-11	BLM shall inform each consulting Indian tribe and consulting party of the practical and legal effect of their failing to respond or provide comment within the 35-calendar-day comment period, but failure of a Tribe to respond should not be interpreted as a concurrence to any action or activity.	The specified 35 days are consistent with the time periods identified in the ACHP's section 106 regulations. See 36 C.F.R. § 800.13. The time periods for comments described in the PA provide a reasonable opportunity for consulting parties to participate, and the time limits are necessary to provide certainty for decisionmaking during the section 106 process governed by this PA. Tribal comments offered after the 35-day time period will be considered and acted upon if possible.
33907-12	Funding for all Tribal monitoring activities (staff and legal expenses) should be provided by the proponent.	The applicant would fund monitoring and mitigation required as part of the ROW.
33907-13	The information on location and nature of all cultural resources should be made fully available to the Tribes.	Government-to-goverment consultation currently is ongoing and will continue up to and including project construction. An Ethnographic Assessment, which includes information on properties of traditional religious and cultural importance to the tribes, was conducted for the proposed project. Site visits, interviews, and meetings with tribal members were conducted as part of the Ethnographic Assessment. Copies of the Ethnographic Assessment were provided to all of the tribes. A Class III inventory of the entire proposed project area would be conducted prior to project construction. Information on sites located within the proposed project area would be documented in a Class III report. Per the Programmatic Agreement (PA), the BLM may enter into a data-sharing agreement with consulting parties to the PA. The Tribes have been invited to be consulting and concurring parties to the PA.
33907-14	If any signing party to this Agreement, or Tribe, objects to any activities proposed pursuant to the terms of this Agreement, BLM shall consult with the objecting party, SNWA and the other signatories to resolve the issue. Tribal participation in the dispute resolution process does not waive Tribal sovereign immunity in any way.	The PA provides several dispute resolution provisions and provides for neutral decisionmakers with binding authority. First, disputes raised by signing parties may be resolved by consultation between BLM, SNWA, the objecting party, and the other Signatories to the PA (local consultation). If that local consultation is unsuccessful, the State Director of Nevada BLM has authority to make a final determination regarding any objection that cannot be resolved by local consultation, except for disagreements on National Register eligibility, findings of effect, or treatment. For disputes raised by non-signing parties, including Identified Indian Tribes, regarding determinations of National Register eligibility, the objector can request the ACHP to request the Keeper of the National Register to determine the eligibility of the property. Issues regarding findings of effect and resolution of adverse effects may be raised directly to the ACHP. The State Director, Keeper of the National Register, and the ACHP are thus three arbiters for dispute resolution. The PA has been revised to include the sovereignity information.
33907-15	A Tribe may terminate participation in this Agreement by written notice and without prejudice or waiver of any rights or obligations of the federal agencies.	Termination of a tribe's participation in the PA does not waive the rights and obligation of the federal agencies, because consultation and trust obligations exist regardless of whether a tribe executes the PA. In response to this comment, a recital was added to the PA recognizing this principle, and Stipulation S.6 has been added to allow tribes to terminate participation in the PA by providing written notice to BLM.
33907-16	Section 106 and the implementing regulations do not require Tribes to enter the draft programmatic agreement with the BLM and SNWA. The federal agencies' trust responsibility and obligation to consult with affected Tribes exists independent of the programmatic agreement. The federal trust responsibility and executive orders require the BLM and federal agencies to consult with affected tribes and protect Tribal natural resources and cultural resources regardless of whether the tribes enter a programmatic agreement.	BLM recognizes that its consultation and trust obligations exist whether a tribe participates in the PA or not. In response to this comment, a recital to that effect was added to the PA. Also, Stipulation D.1.6 of the PA requires BLM to continue consultation with tribes regarding cultural resources and historic properties, regardless of whether the tribe signed the PA. Other Stipulations in the PA also recognize and incorporate BLM's ongoing consultation responsibility, irrespective of whether a tribe signed the PA, including but not limited to Stipulations F.5, H.1, H.6, I.1.

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ID	Comment	Response
33907-17	The BLM acknowledges that important tribal historic properties may be affected (p.2). However, the draft only suggests that the tribes "may" attach religious and cultural significance to affected project areas that "may" be affected. This language fails to acknowledge that important resources and areas will certainly be affected by any construction of the proposed project.	The BLM has made a reasonable and good faith effort to identify tribes that “may” attach religious and cultural significance to historic properties that “may” be affected by the Project. The first “may” recognizes that the agency took a broad approach to identifying tribes. The agency contacted and initiated consultation with tribes that may or may not attach cultural and religious significance to historic properties that may be affected, in order to be sure that the appropriate tribes were ultimately identified, and to help ensure that no tribes with consultation rights for this Project were left unidentified. With respect to the second “may,” a determination of whether cultural resources or historic properties will be affected will be determined by the agency in the NEPA processes for this Project, as the agency determines the likelihood of effects. Furthermore, Stipulation H.2 of the PA includes an express preference for avoidance of impacts to historic properties. It is not the intent of this provision to assume there will be no affects, rather it accurately reflects that resources may in some instances be avoided and be left unaffected, or be fully mitigated.
33907-18	The agreement purports to give affected Tribes an opportunity to consult with the BLM about affected properties, but the BLM has refused to disclose to the Tribes full cultural information known by the BLM without first placing conditions and restrictions on the Tribes ability to utilize this information in appropriate forums to protect these important tribal cultural resources. How can the tribes effectively consult with the BLM about affected tribal cultural resources and protect those resources when the BLM will not provide the Tribes information it possesses and allow the tribes to utilize the information in appropriate forums? The proposed draft programmatic agreement does not allow for consultation "in a manner respectful of both tribal sovereignty and the unique government-to-government relationship between Indian tribes and the United States government." (p.2). The draft agreement unwisely asks for the tribes to approve a process for addressing facilities "identified but not yet designed, or whose location has yet to be determined, and those that may be added in the future." (p.3). How can the tribes understand and consult regarding the effects of the project on historic properties when the scope of the proposed facilities is not defined and the information known by the proponent and federal agencies is not shared fully with the affected tribes?	BLM is willing to disclose information to tribes. BLM is required by several statutes to keep certain information confidential and is required by the section 106 regulations to address concerns over confidentiality of information. ACHP’s guidance suggests that “[i]ssues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties.” ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. The confidentiality agreements that BLM provides to the tribes before sharing information are used to protect information from public disclosure. BLM provided draft confidentiality agreements to several tribes and invited suggestions for revisions to those agreements that would accommodate tribal needs and interests. The PA does not specify the manner of consultation, as the manner of consultation may vary from tribal government to tribal government. BLM is obligated to consult with each tribe that attaches cultural or religious significance to an affected historic property The PA acknowledges this consultation obligation to the tribes.
33907-19	State that any information known by the BLM, any federal agency, or the proponent regarding tribal natural or cultural resources that may be significant to a tribe will be fully disclosed to the tribe immediately, including information obtained in the past and the future.	The PA states that BLM will submit copies of reports, recommendations of eligibility and effect, and treatment or data recovery plans to consulting Indian tribes as appropriate. This stipulation applies to both Tier 1 activities, and Future Tier activities, and thus provides for the sharing of information into the future. The suggestion that BLM disclose to each tribe information regarding natural resources is outside the scope of this PA, which is devoted to historic properties, including properties of cultural and religious significance. This information can be obtained from your local BLM Field Office at your convenience.
33907-20	That no consultation may be said to occur without a resolution of the Tribal Council with participation of Tribal attorneys.	Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) (“The agency official shall consult with representatives designated or identified by the tribal government”); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior’s December 2, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe. In light of each tribe’s ability to determine who consults, it would be inappropriate for BLM to state in response to this comment that each tribe must convene a quorum of its tribal council and have attorneys and other staff present for tribal consultation meetings. Rather, that determination should be made by individual tribes. In its ongoing consultation with each tribe, BLM will renew its request for each tribe to identify who will consult on the tribe’s behalf, and any tribe may specify its consultation person or persons.
33907-21	That the BLM and BIA will respect the Tribal request to renegotiate the previously-entered stipulations regarding impacts to Tribal resources by the proposed SNWA groundwater project.	The Stipulated Agreements were not designed to address historic properties or cultural resources as required by the NHPA. The PA serves that purpose. The PA governs the identification and evaluation of cultural resources and historic properties as required by the National Historic Preservation Act. This comment has been consolidated with other similar comments and has been forwarded to the executive committee for the Stipulated Agreements.
33907-22	That the federal agencies will assist the Tribes (funding and staff participation) to quantify and obtain a legal recognition of the affected tribe's reserved water rights, prior to any construction of the proposed groundwater project. The federal agencies and proponent should assist the Tribes in construction of necessary infrastructure to develop and utilize their water rights prior to any construction of the proposed project.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.

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ID	Comment	Response
33907-23	That the federal agencies will withhold any approvals related to the proposed project until the tribes water rights are quantified and legally recognized.	Impacts to all potential water sources – whether or not those sources are the subject of federal reserved water rights, state appropriation-based water rights, or are unappropriated waters – have been summarized, evaluated, and considered in the EIS. Similarly, project mitigation measures apply to all water sources regardless of water rights status. By analyzing potential impacts to all identified water sources, the EIS analysis thus encompasses potential impacts to any federal reserved water rights that may later be identified in or adjudicated on these sources. Finally, the EIS describes the background for federal reserved water rights in Chapter 3, Section 3.3.1.7, Water Resources. There is no federal authority prohibiting the grant of a federal right of way on BLM land prior to the adjudication of federal reserved water rights. In this instance, Congress specifically mandated that certain portions of the right-of-way be granted by the BLM for the GWD Project. See Pub.L. No. 108-424, § 301.
33907-24	Tribal cultural resources personnel should have equal and full access and participation with federal agency staff, with full funding for their expenses and work.	ACHP's section 106 regulations do not provide a mandatory funding mechanism for tribal cultural resource personnel. BLM's policy regarding compensation to Native Americans for their participation in the BLM's administrative process is: The BLM does not compensate individuals or organizations including Native American individuals, Indian tribes, Indian communities, and Indian organizations for contributing information or comments as input into the BLM's administrative process designed to protect tribal interests. BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1.
33907-25	The federal agencies should not enter the agreement until the affected tribes approve the terms.	For the development of a PA, the BLM is required to consult with tribes. 36 C.F.R. § 800.14(f). The regulations do not provide for tribal approval of the terms of the PA. By regulation, the PA takes effect when the ACHP, the SHPO, and the agency(ies) execute the agreement. Id. § 800.14(b)(2)(iii).
33907-26	The affected tribe should participate in determining and documenting areas of potential effects (APE's).	By regulation, the agency in consultation with the SHPO determines and documents the APEs, 36 C.F.R. § 800.4(a)(1), while affected tribes are invited to participate in the identification and evaluation of historic properties, including properties of traditional religious and cultural importance, and in the resolution of adverse effects. Id. § 800.2(c)(2)(B)(ii). Identified Indian Tribes were invited to participate and have already identified various historic properties and cultural resources through the Ethnographic Assessment process, as reflected in the preamble to the PA, and through tribal consultation which is ongoing throughout the Project.
33907-27	Section D.1.c should be changed. Federal law requires the BLM to consult with affected tribes regardless of whether the tribe enters the draft agreement.	BLM recognizes that its consultation and trust obligations exist whether a tribe participates in the PA or not. In response to this comment, text was added to the PA. The PA requires BLM to continue consultation with tribes regarding cultural resources and historic properties, regardless of whether the tribe signed the PA. Other Stipulations in the PA also recognize and incorporate BLM's ongoing consultation responsibility, irrespective of whether a tribe signed the PA.
33907-28	The BLM should enter the data sharing agreements proposed by the Tribes, which require the BLM to share fully cultural information and allow the tribe to utilize the information as the tribe deems appropriate to protect tribal resources. See Section D.4.	The PA provides for the execution of data-sharing agreements. BLM may not allow that information to be freely used however because, by statute, the agency is obligated to protect sensitive information and other information about historic properties. BLM is willing to disclose information to tribes. BLM is required by several statutes to keep certain information confidential and is required by the section 106 regulations to address concerns over confidentiality of information. ACHP's guidance suggests that "[i]ssues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties." ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. The confidentiality agreements that BLM provides to the tribes before sharing information are used to protect information from public disclosure. BLM provided draft confidentiality agreements to several tribes and invited suggestions for revisions to those agreements that would accommodate tribal needs and interests.
33907-29	Section D.1.e. Any contacts with the tribes by the proponent or federal agency regarding NHPA compliance should be copied to the Tribal Councils and Tribal attorneys assigned to this issue.	Each tribe designates who will represent it in consultation. 36 C.F.R. § 800.2(c)(ii)(C) ("The agency official shall consult with representatives designated or identified by the tribal government"); ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 7; BLM, Guidelines for Conducting Tribal Consultation, BLM Manual Handbook H-8120-1, at § V.B. The Department of the Interior's December 2, 2011 tribal consultation policy similarly recognizes that the tribes determine who will consult on behalf of each tribe, not the agency. In its ongoing consultation with each tribe, BLM will renew its request for each tribe to identify who will consult on the tribe's behalf, and any tribe may specify its consultation person or persons.
33907-30	Any discovery of cultural resources should be communicated to the tribe and not just the BLM for determination of significance. See Section I.2. Tribes should be able to evaluate for themselves the significance of the discovery. The time periods in Section I are too short.	The comment period provided to the Identified Indian Tribes is consistent with the comment period for other consulting parties and are consistent with ACHP's section 106 regulations. See 36 C.F.R. § 800.13. BLM determined that the time periods for comments described in the PA provide a reasonable opportunity for consulting parties to participate, and the time limits are necessary to provide certainty for decisionmaking during the section 106 process governed by this PA. BLM is willing to disclose information to tribes. BLM is required by several statutes to keep certain information confidential and is required by the section 106 regulations to address concerns over confidentiality of information. ACHP's guidance suggests that issues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties. ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. Tribes have initiated and participated in the process of determining the importance of various discoveries through government-to-government consultation.

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ID	Comment	Response
33907-31	The failure of a tribe to respond should not be interpreted as a concurrence to any action or activity. Section J.5.	The comment period provided to the Identified Indian Tribes is consistent with the comment period for other consulting parties and with those specified in the ACHP's section 106 regulations. See 36 C.F.R. § 800.13. The time periods for comments described in the PA provide a reasonable opportunity for consulting parties to participate, and the time limits are necessary to provide certainty for decisionmaking during the section 106 process governed by this PA. Tribal comments provided after the time period will be addressed, if possible.
33907-32	Consulting tribes should participate fully in monitoring. Section L. Funding for all monitoring activities (staff and legal expenses) should be provided by the proponent.	Tribal monitoring is addressed in the PA. The PA provides for tribal monitoring of construction activities at historic properties to which a tribe attaches religious or cultural significance in the APEs for direct effects. Pursuant the PA, the project proponent is responsible for funding any required monitoring.
33907-33	Information on location and nature of all cultural resources should be made fully available to tribes. See section N.7.	BLM is willing to disclose information to tribes. BLM is required by several statutes to keep certain information confidential and is required by the section 106 regulations to address concerns over confidentiality of information. ACHP's guidance suggests that "[i]ssues of confidentiality and sensitivity of information require flexibility and cooperation among the consulting parties." ACHP, Consultation with Indian Tribes in the Section 106 Review Process: A Handbook, at 20. The confidentiality agreements that BLM provides to the tribes before sharing information are used to protect information from public disclosure.
33907-34	Dispute resolution provisions should provide for a neutral decision-maker with binding authority. The agreement should also include provisions that tribal participation or signing does not waive tribal sovereign immunity in any way.	The PA provides several dispute resolution provisions and provides for neutral decisionmakers with binding authority. First, disputes raised by signing parties may be resolved by consultation between BLM, SNWA, the objecting party, and the other Signatories to the PA ("local consultation"). If that local consultation is unsuccessful, the State Director of Nevada BLM has authority to make a final determination regarding any objection that cannot be resolved by local consultation, except for disagreements on National Register eligibility, findings of effect, or treatment. For disputes raised by non-signing parties, including Identified Indian Tribes, regarding determinations of National Register eligibility, the objector can request the ACHP to request the Keeper of the National Register to determine the eligibility of the property. Issues regarding findings of effect and resolution of adverse effects may be raised directly to the ACHP. The State Director, Keeper of the National Register, and the ACHP are thus three arbiters for dispute resolution. Text regarding tribal sovereignty pursuant to this comment has been added to the PA.
33907-35	A tribe should be able to terminate participation by written notice and without prejudice or waiver of any rights or obligation of the federal agencies.	Termination of a tribe's participation in the PA does not waive the rights and obligation of the federal agencies, because consultation and trust obligations exist regardless of whether a tribe executes the PA. In response to this comment, text was added to the PA recognizing this principle. Also a new stipulation has been added to provide for tribes to terminate participation in the PA with a written notice to BLM.
33907-36	Termination of a tribe's participation in any agreement will not impact or limit the federal agencies' consultation obligations or trust responsibility in any manner.	Termination of a tribe's participation in the PA does not waive the rights and obligation of the federal agencies, because consultation and trust obligations exist regardless of whether a tribe executes the PA.
Te-Moak Tribal Council		
34359-1	the Great Basin Tribes opposed Stipulated Agreements between the SNW A and Department of the Interior agencies, including the Bureau of Indian Affairs (BIA), which were entered without Tribal consultation and provided that protests from those agencies would not be filed and submitted to the Nevada State engineer; and WHEREAS, the Great Basin Tribes were never contacted, consulted, or otherwise informed by the BIA, which are supposed to represent tribal interests, the Bureau of Indian Affairs trust responsibility is to protect the best interests of Tribes, but signed a "stipulated agreement" abandoning federal protests without consulting with the Tribes violating the 2006 Executive Order 13175 Consultation and Coordination with Indian Tribal Governments;	BLM has no role in the management of Nevada water rights. However, BLM is a party to water rights stipulated agreements in Spring, Delamar, Dry Lake and Cave valleys. Therefore, we have forwarded your comment to the executive committee who oversees the development and implementation of activities under these stipulated agreements. We have also provided a copy of your comment to the Bureau of Indian Affairs.
34359-2	substantial scientific information invariably indicates that disrupting the hydrological and ecological system of the Great Basin Tribes' aboriginal lands, including Spring and Snake Valleys, will cause wide ranging groundwater problems and result in profoundly harmful and long lasting environmental, economic, cultural, and spiritual impacts on the people of the Great Basin and the surrounding communities in Nevada and Utah	Impacts to environmental, economic, cultural, and Native American concerns are analyzied in Chapter 3 of the DEIS.
34359-3	the Te-Moak Tribal Council is responsible for protecting the people/lands and the natural resources, including water that sustain our lands within the aboriginal lands so that present and future generations can enjoy those resources unique influence on and value to the people and our environment;	Thank you for expressing your concerns related to the Draft EIS. Your suggestions have been carefully considered by the BLM, but have not resulted in changes to the analyses presented in this document.
34359-4	on June 17,2008 the Te-Moak Tribal Council adopted resolution 08-TM-08 which opposed groundwater applications made by SNWA. demanded the State Engineer respect our right to continued physical, economic, cultural and spiritual survival, and urged the denial of SNWA's application for ground water rights.	Thank you for your comment. The subject of this comment is beyond the Draft EIS scope and does not require further agency response. However, your comment topic will be considered by the BLM during preparation of the Final EIS and Record of Decision.
Washoe Tribe Environmental Protection Dept		

Comments and Responses - Tribal Government

ID	Comment	Response
34336-1	The economic affect on existing water users in the area to be affected is not adequately examined in the EIS. As the groundwater levels drop, opportunities for the rural residents will also decline. There will be restricted economic development over a large geographic area in favor of water for Las Vegas.	Text has been added in Section 3.18.2.9 noting the potential preclusion of a future, unknown major economic development prospect within the rural areas associated with water rights appropriations on SNWA's applications. However, the underlying subject of this comment relates to the allocation of water resources in the state. As noted in the DEIS, the responsibility for administering water in Nevada rests with the Nevada State Engineer, and consideration of public interest is one of the factors to be considered in the water rights appropriation. Given the state's authority in this matter, the subject is beyond the scope of the EIS.
34336-2	The water use projection sin the EIS are invalid because they are based upon prerecession rates of growth in Clark County. The city of Las Vegas has led the nation is foreclosures for many years running, and the unhinged growth Las Vegas experienced in the housing bubble is what the water use projections are based upon in the EIS. Currently Las Vegas is projected for slow growth, population loss, and continued poor housing market. These facts alone leave the question why the pipeline project is needed especially considering the environmental impacts.	Please review generic response SocEcon-2 for a complete response to this issue. The EIS includes extensive discussion of projected growth rates based on available information and analysis from the Nevada State Demographer's projections and the University of Nevada Las Vegas Center for Business and Economic Research (CBER), among other sources. The water use projections, provided by SNWA, rely on population projections to forecast water demands, but also take into consideration current economic conditions, as they have an effect on water use. The current economic downturn affecting local, national and even global economies has presented unique challenges to water planners as to when the economy will recover. As a result, short-term adjustments to CBER's population forecast have been made. For example, to reflect population trends for the year 2009, no new growth or additional water demands were assumed. Nevertheless, annual growth is assumed in future years consistent with the long-term trend for southern Nevada. After carefully review of the most current water use projections and demographic data, BLM concluded that the forecasts published since the 2008 CBER forecast, remain valid for forecasting anticipated demands over the long-term planning horizon.
34336-3	Looking toward the future, the EIS can only estimate the prolonged affect that ground water pumping will have on surface waters. The effects on perennial and ephemeral water ways could have a significant impact on sensitive water sources which plants and animals depend. The site-specific hydrologic conditions can't be fully modeled so regional effects are left to question in the EIS. The actual amount of lands affected will increase dramatically as aquifers are depleted, and plant communities, such as riparian and basin shrub land, will suffer irreversibly as groundwater levels drop permanently.	Thank you for your comment. Potential long-term impacts to vegetation related to groundwater drawdown are addressed at a programmatic level in this EIS. Additional site-specific analyses will be performed during subsequent NEPA to address specific areas with specialized plant communities and specific soil conditions.
Western Shoshone Government (PA)		
34488-1	The Spanish Trail was found and overlays the native pathway used prehistorically and historically by the Western Shoshone people to access the sea. No analysis of the impact to native pathways has been conducted.	Tribal members were involved in the Ethnographic Assessment prepared for the proposed project. As part of the assessment, the BLM conducted site visits and interviews with tribal members to identify properties of traditional religious and cultural importance to the tribes. No pathway was identified at that time. Government-to-government consultation between the BLM and Native American Tribes currently is ongoing. The consulltation process provides the Tribes with the opportunity to identify sites/places of tribal concern.
34488-2	The failure of the DEIS to not use a culturally appropriate context is a violation of Executive Order 12898 Environmental Justice. A culturally appropriate context for identifying impacts to Western Shoshone interests and concerns is not used and therefore, Native American concerns in the DEIS are insufficient.	Impacts to Native American traditional values and impacts related to environmental justice are discussed in sections 3.17 and 3.18 of the DEIS. Tribal consultation to identify properties of traditional religious and cultural importance to Indian tribes, and to identify tribal concerns is ongoing and would continue to occur during each tier of the Project.
34488-3	The Programmatic Agreement for Historic Preservation and Protection of and Cultural Properties is not lawful or valid within Newe Sogobia and is a violation of Western Shoshone custom.	The Programmatic Agreement was developed under the provisions of the National Historic Preservation Act, and its implementing regulations, as provided in Appendix F3.16.
34488-4	The use of a programmatic agreement by the US and the State of Nevada to address any interest within the boundaries of the Treaty of Ruby Valley is a violation of the US Constitution Article 1, Supremacy Clause, the Nevada Territorial Act and the Treaty of Ruby Valley.	The Programmatic Agreement was developed under the provisions of the National Historic Preservation Act, and its implementing regulations, as provided in Appendix F3.16.
34488-5	The Spanish Trail was found and overlays the native pathway used prehistorically and historically by the Western Shoshone people to access the sea. No analysis of the impact to native pathways has been conducted.	Tribal members were involved in the Ethnographic Assessment (EA), which was prepared for the proposed project. During the tribal interviews and site visits conducted for the EA, no native pathway to access the sea was identified by the tribal participants. Government-to-government consultation between the BLM and tribal governments has been and will continue to be conducted for the proposed project. The consultation process provides an opportunity for tribal members and governments to inform the BLM about sites of tribal concern that could be affected by the proposed project.
34488-6	The failure of the DEIS to not use a culturally appropriate context is a violation of Executive Order 12898 Environmental Justice. A culturally appropriate context for identifying impacts to Western Shoshone interests and concerns is not used and therefore, Native American concerns in the DEIS are insufficient.	Impacts to Native American traditional values and impacts related to environmental justice are discussed in sections 3.17 and 3.18 of the DEIS. Tribal consultation to identify properties of traditional religious and cultural importance to Indian tribes, and to identify tribal concerns is ongoing and would continue to occur during each tier of the Project.
34488-7	The Programmatic Agreement for Historic Preservation and Protection of and Cultural Properties is not lawful or valid within Newe Sogobia and is a violation of Western Shoshone custom.	The Programmatic Agreement was developed under the provisions of the National Historic Preservation Act, and its implementing regulations, as provided in Appendix F3.16.
34488-8	The use of a programmatic agreement by the US and the State of Nevada to address any interest within the boundaries of the Treaty of Ruby Valley is a violation of the US Constitution Article 1, Supremacy Clause, the Nevada Territorial Act and the Treaty of Ruby Valley.	The Programmatic Agreement was developed under the provisions of the National Historic Preservation Act, and its implementing regulations, as provided in Appendix F3.16.
Western Shoshone National Council		
38040-1	Reparation Rights	This was bracketed in error and should not have been considered as a comment on the Draft EIS..

Comments and Responses - Tribal Government

ID	Comment	Response
38040-2	Natura Rights (first use)	This was bracketed in error and should not have been considered as a comment on the Draft EIS.
38040-3	Recycle the used water from Las Vegas (Billion Cheaper)	This was bracketed in error and should not have been considered as a comment on the Draft EIS.
38040-4	The destruction of thousands of acres of Pinyon and Juniper trees to power the electrical water pumps to push the water to Las Vegas; Also with the removal of the trees “the downwinder” effect of radiation, with how many people will die from this?	Please see Standard Resource Response Air-1 for a discussion of impacts of dust with the potential to carry radionuclides.
38040-5	With the Reduced population in Las Vegas the need for water is less Perhaps less waterworks shows and swimming pools, would cut the need?	Updated section 3.18 (socioeconomics and environmental justice) provides a detailed discussion of population growth projections for the Las Vegas Valley. Please refer to standard resource response SocEcon-2. Please also see standard resource response Gen-3.
38040-6	One last question is, with no class 3 inventory (archaeology) COHY isn’t it in the Elko Rmp?	Updated section 3.16 (cultural resources) describes that a class 3 inventory will be conducted prior to construction of the project components. The Ely and Southern Nevada (Las Vegas) RMPs are the relevant BLM land use plans.